

ADMINISTRATIVE REGISTER OF KENTUCKY

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

VOLUME 24, NUMBER 2
FRIDAY, AUGUST 1, 1997



Administrative Regulation Review Subcommittee, August Agenda	265
Regulation Review Procedure	268
Reprint:	
Cabinet for Health Services	269
Notices of Intent:	
Higher Education Assistance Authority	279
Revenue Cabinet	280
Kentucky Asset/Liability Commission	282
Board of Dentistry	283
Board of Nursing	284
Board of Psychology	285
Department of Fish and Wildlife Resources	290
Department of Agriculture	292
Justice Cabinet - Department of Corrections	293
Transportation Cabinet	295
Education Professional Standards Board	295
Workforce Development Cabinet	296
Department of Workers' Claims	297
Department of Housing, Buildings and Construction	298
Cabinets for Health Services, and Families and Children	302
Emergencies:	
Kentucky Asset/Liability Commission	307
Workforce Development Cabinet	308
Cabinets for Families and Children	311
As Amended by Agency and Reviewing Committee:	
Department of Law - Consumer Protection	328
Office of the Attorney General	329
Board of Pharmacy	329
Real Estate Commission	330
NREPC - Water	332
Justice Cabinet - Corrections	339
Transportation Cabinet	339
Education Professional Standards Board	343
Department of Workers' Claims	349
Department of Mines and Minerals	365
Public Service Commission	367
Department of Financial Institutions	368
Cabinets for Families and Children, and Health Services	380
Amended After Public Hearing: (None)	
Proposed Amendments Received Through Noon, July 15, 1997:	
Personnel Board	387
Revenue Cabinet	388
Board of Nursing	391
Department of Fish and Wildlife Resources	392
Justice Cabinet - Corrections	396
Transportation Cabinet	398
Education Professional Standards Board	404
Workforce Development Cabinet	407
Cabinets for Health Services	410
New Administrative Regulations Received Through Noon, July 15, 1997:	
Board of Nursing	425
Department of Fish and Wildlife Resources	427
Justice Cabinet - State Police	429
Department of Insurance	431
Cabinet for Health Services	435
July Minutes of the Administrative Regulation Review Subcommittee	441
Other Committee Reports	448

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates	B2
KRS Index	B8
Subject Index	B10

MEETING NOTICE: The Administrative Regulation Review Subcommittee is scheduled to meet on August 12, 1997. See tentative agenda beginning on page 265 of this Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 1997 Edition of **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE**.

HOW TO CITE: Cite all material in the **ADMINISTRATIVE REGISTER OF KENTUCKY** by Volume number and Page number.
Example: Volume 2, Kentucky Register, page 318 (short form: 2 Ky.R. 318).

KENTUCKY ADMINISTRATIVE REGULATIONS are codified according to the following system and are to be cited by Title, Chapter and Regulation number, as follows:

Title	Chapter	Regulation
806	50:	155
Cabinet, Department, Board or Agency	Office, Division, or Major Function	Specific Regulation

ADMINISTRATIVE REGISTER OF KENTUCKY

(ISBN 0096-1493)

© 1997 Legislative Research Commission, All Rights Reserved

The Administrative Register of Kentucky is published monthly by the Legislative Research Commission, Frankfort, Kentucky 40601. Subscription rate, postpaid in the United States: \$48 (plus 6% Kentucky sales tax) per year for 12 issues, beginning in July and ending with the June issue of the subsequent year. Periodical postage paid at Frankfort, Kentucky.
POSTMASTER: Send address changes to Administrative Register of Kentucky, Room 64, State Capitol, Frankfort, Kentucky 40601.

KENTUCKY LEGISLATIVE RESEARCH COMMISSION

Chairmen

Senator Larry Saunders
Senate President

Representative Jody Richards
Speaker of the House

Senate and House Members

Senator Walter Blevins, Jr.
Senate President Pro Tem

Representative Larry Clark
Speaker Pro Tem

Senator David K. Karem
Majority Floor Leader

Representative Gregory D. Stumbo
Majority Floor Leader

Senator Dan Kelly
Minority Floor Leader

Representative Danny R. Ford
Minority Floor Leader

Senator Nick Kafoglis
Majority Caucus Chairman

Representative Jim Callahan
Majority Caucus Chairman

Senator Richard L. "Dick" Roeding
Minority Caucus Chairman

Representative Stan Cave
Minority Caucus Chairman

Senator Fred Bradley
Majority Whip

Representative Joe Barrows
Majority Whip

Senator Elizabeth Tori
Minority Whip

Representative Woody Allen
Minority Whip

Don Cetrulo, Director

Samuel L. Hensley, Assistant Director for Education and Information

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Members

Representative John Arnold, Chairman
Senator Nick Kafoglis
Senator Joey Pendleton
Senator Richard Roeding
Representative Woody Allen
Representative Jim Bruce
Representative Jimmie Lee

Staff

Susan Eastman
Gregory Karambellas
Donna Little
Stephen Lynn
Angela Phillips
Donna Valencia
Susan Wunderlich

ADMINISTRATIVE REGISTER - 265

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA - August 12, 1997 at 10 a.m.
Room 149, Capitol Annex**

(& E) - means that the emergency administrative regulation has previously been reviewed by the subcommittee

LEGISLATIVE RESEARCH COMMISSION

Capital Planning Advisory Board

1 KAR 6:020. Policies and procedures. (Deferred from February)

**GENERAL GOVERNMENT CABINET
State Board of Elections**

Forms and Procedures

31 KAR 4:020. Elections costs, county clerk reimbursement and form.

PERSONNEL CABINET

Department of Personnel, Unclassified

101 KAR 3:045E. Compensation plan and compensation incentive systems. (Deferred from May)

KENTUCKY TEACHERS' RETIREMENT SYSTEM

General Rules

102 KAR 1:175. Investment policies.

**FINANCE AND ADMINISTRATION CABINET
Kentucky Infrastructure Authority**

Authority

200 KAR 17:070. Drinking Water State Revolving Fund, priority formula and application requirements. (Public Hearing in June)

**GENERAL GOVERNMENT CABINET
Kentucky State Board of Examiners & Registration of Landscape Architects**

Board

201 KAR 10:010. Board personnel.
201 KAR 10:040. Applications.
201 KAR 10:070. Seals.
201 KAR 10:080. Continuing education.

Board of Ophthalmic Dispensers

201 KAR 13:080. Inspection of establishments. (Deferred from July)

Board of Social Work (Deferred from July)

201 KAR 23:011. Repeal of 201 KAR 23:010, 201 KAR 23:030, 201 KAR 23:040, 201 KAR 23:100, and 201 KAR 23:110.
201 KAR 23:020. Fees.
201 KAR 23:060. Licensed social workers, certified social workers, and licensed clinical social workers.
201 KAR 23:070. Qualifying education and qualifying experience under supervision.
201 KAR 23:080. Code of ethical conduct.
201 KAR 23:140. Per diem compensation for board members.

**TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources**

Game

301 KAR 2:111. Deer and turkey hunting on federal areas.
301 KAR 2:125. Small game and furbearer hunting on federal areas.

**DEPARTMENT OF AGRICULTURE
Division of Markets**

Organic Agricultural Product Certification

302 KAR 40:010. Standard organic agricultural product requirements. (Deferred from June)

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management**

Waste Tires

401 KAR 46:005. Definitions related to 401 KAR Chapter 46.
401 KAR 46:010. General provisions for waste tires.
401 KAR 46:020. Registration for waste tire accumulators and waste tire processors.
401 KAR 46:030. Operating requirements for waste tire facilities.

ADMINISTRATIVE REGISTER - 266

- 401 KAR 46:040. Financial assurance.
- 401 KAR 46:050. Tire retailer fee.
- 401 KAR 46:060. Waste Tire Trust Fund Loan Program.
- 401 KAR 46:070. Waste Tire Trust Fund Grant Program.

Solid Waste Facilities

- 401 KAR 47:150. Special types of permits.

JUSTICE CABINET **Division of Charitable Gaming**

Charitable Gaming

- 500 KAR 11:001. Definitions.
- 500 KAR 11:025. Quarterly reports.
- 500 KAR 11:080. Charity fundraising event.
- 500 KAR 11:090. Special limited charitable games.

Department of Corrections **Division of Adult Institutions**

Office of the Secretary

- 501 KAR 6:020. Corrections policies and procedures. (Deferred from June)
- 501 KAR 6:050. Luther Lockett Correctional Complex.
- 501 KAR 6:060. Northpoint Training Center. (Deferred from July)
- 501 KAR 6:130. Western Kentucky Correctional Complex. (Found Deficient by ARRS, 10/96) (Deferred from November)

Department of State Police

Candidate Selection

- 502 KAR 45:145E. Merit Pay Program.

Department of Juvenile Justice

Child Welfare

- 505 KAR 1:020&E. Internal grievance procedure.
- 505 KAR 1:030E. DJJ policy and procedures manual. (Deferred from June)

TRANSPORTATION CABINET **Department of Highways** **Permits Branch**

Maintenance

- 603 KAR 3:080. Advertising devices.

Traffic

- 603 KAR 5:070E. Motor vehicle dimension limits.

EDUCATION, ARTS AND HUMANITIES CABINET **Board of Education**

Department of Education **Office of District Support Services**

School Terms, Attendance and Operation

- 702 KAR 7:065. Designation of agent to manage high school interscholastic athletics.

Bureau of Learning Support Services

Office of Learning Support Services

- 704 KAR 7:130. Minority teacher recruitment.

Education Professional Standards Board

Board

- 704 KAR 20:165. Qualifications for professional school positions.
- 704 KAR 20:710. Professional certificate for instructional leadership - school principal, all grades.

FINANCE AND ADMINISTRATION CABINET **School Facilities Construction Commission**

Education Technology Funding Program

- 750 KAR 2:010. Education Technology Funding Program guidelines.

WORKFORCE DEVELOPMENT CABINET **Department for Adult and Technical Education**

Personnel System for Certified and Equivalent Employees (Deferred from May)

- 780 KAR 3:070. Attendance, compensatory time, and leave. (Amended After Hearing)
- 780 KAR 3:080. Extent and duration of school term, use of school days and extended employment. (Amended After Hearing)

Unclassified Personnel Administrative Regulations

- 780 KAR 6:060. Attendance, compensatory time, and leave. (Deferred from March)

ADMINISTRATIVE REGISTER - 267

PUBLIC PROTECTION & REGULATION CABINET Department of Insurance

Rates and Rating Organizations (Deferred from June)

- 806 KAR 13:130E. Experience modification factors for workers' compensation insurers.
- 806 KAR 13:140E. Notice of right to seek review of application of workers' compensation insurance rates.

Health Maintenance Organizations

- 806 KAR 38:090&E. HMO open enrollment.

Kentucky Racing Commission

Harness Racing

- 811 KAR 1:090&E. Stimulants and drugs.

CABINET FOR HEALTH SERVICES

Department for Public Health

Division of Health Systems Development

Emergency Medical Services and Ambulance Service Providers

- 902 KAR 14:100. Advanced life support (ALS) medical first response providers.

Office of Inspector General

Health Services and Facilities

- 902 KAR 20:016E. Hospitals, operations and services.
- 902 KAR 20:026. Operations and services; skilled nursing facilities.
- 902 KAR 20:036. Operation and services; personal care homes.

Division of Environmental Health and Community Safety

Controlled Substances

- 902 KAR 55:095E. Prescription for Schedule II controlled substance - facsimile transmission or partial filling.

Radiology

- 902 KAR 100:040. General provisions for specific licenses. (Deferred from June)
- 902 KAR 100:073. Use of radionuclides in the healing arts.

CABINET FOR FAMILIES AND CHILDREN

Department for Social Insurance

Division of Management & Development

Public Assistance

- 904 KAR 2:006E. Technical requirements for the Kentucky Transitional Assistance Program (K-TAP). (Deferred from July)
- 904 KAR 2:016E. Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP). (Deferred from July)
- 904 KAR 2:035E. Right to apply and reapply.
- 904 KAR 2:040E. Procedures for determining initial and continuing eligibility.
- 904 KAR 2:046E. Adverse action; conditions.
- 904 KAR 2:050E. Time and manner of payments.
- 904 KAR 2:055E. Hearings and appeals.
- 904 KAR 2:060E. Delegation of power for oaths and affirmations.

Food Stamp Program

- 904 KAR 3:020&E. Financial requirements.
- 904 KAR 3:042&E. Food Stamp Employment and Training Program.

Department for Social Services

Division of Family Services

Child Welfare

- 905 KAR 1:180E. DSS policy and procedures manual. (Deferred from June)

CABINET FOR HEALTH SERVICES

Department for Medicaid Services

Division of Administration and Development

Medicaid Services

- 907 KAR 1:003. Repeal of 907 KAR 1:004.
- 907 KAR 1:022E. Nursing facility and intermediate care facility for the mentally retarded services. (Deferred from April)
- 907 KAR 1:025E. Payments for nursing facility and intermediate care facility for the mentally retarded services. (Deferred from April)
- 907 KAR 1:160E. Home and community based waiver services. (Deferred from June)
- 907 KAR 1:170E. Payments for home and community based waiver services. (Deferred from June)
- 907 KAR 1:645. Resource standards for Medicaid. (Deferred from June)
- 907 KAR 1:655. Spousal impoverishment and nursing facility requirements for Medicaid. (Deferred from June)
- 907 KAR 1:665. Special income requirements for alternative intermediate services for individuals with mental retardation (AIS-MR), hospice, and home and community based services (HCBS). (Deferred from June)
- 907 KAR 1:710. Managed behavioral health care initiative (1915b Waiver). (Public Hearing in June)
- 907 KAR 1:720E. Coverage and payments for the Kentucky Early Intervention Program services provided through an agreement with the state Title V agency. (Deferred from June)

Department for Mental Health and Mental Retardation Services

Mental Health

- 908 KAR 2:200E. Coverage and payment for Kentucky Early Intervention Program services. (Deferred from June)

ADMINISTRATIVE REGULATION REVIEW PROCEDURE
(See KRS Chapter 13A for specific provisions)

Notice of Intent

Administrative bodies shall file with the Regulations Compiler a Notice of Intent to promulgate an administrative regulation, including date, time and place of a public hearing on the subject matter to which the administrative regulation applies. This Notice of Intent, along with the public hearing information, shall be published in the Administrative Register. This Notice has to be filed and published in the Administrative Register, and the public hearing held or cancelled, prior to the filing of an administrative regulation.

After the scheduled hearing date, if held, the administrative body shall file with the Regulations Compiler a Statement of Consideration, setting forth a summary of the comments made at the public hearing, and the responses by the administrative body. This Statement shall not be published in the Administrative Register.

Filing and Publication

Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, public hearing information, tiering statement, regulatory impact analysis, fiscal note, and the federal mandate comparison. Those administrative regulations received by the deadline required in KRS 13A.050 shall be published in the Administrative Register.

Public Hearing

The administrative body shall schedule a public hearing on proposed administrative regulations to be held not less than twenty (20) nor more than thirty (30) days following publication. The time, date, and place of the hearing and the name and address of the agency contact person shall be included on the last page of the administrative regulation when filed with the Compiler's office.

Any person interested in attending the scheduled hearing must submit written notification of such to the administrative body at least five working (5) days before the scheduled hearing. If no written notice is received at least five (5) working days before the hearing, the administrative body may cancel the hearing.

If the hearing is cancelled, the administrative body shall notify the Compiler of the cancellation. If the hearing is held, the administrative body shall submit within fifteen (15) days following the hearing a statement of consideration summarizing the comments received at the hearing and the administrative body's responses to the comments.

No transcript of the hearing need to be taken unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

Review Procedure

If a proposed administrative regulation is amended as a result of the public hearing, the amended version shall be published in the next Administrative Register; and the administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting following publication. If a proposed administrative regulation is not amended as a result of the hearing or if the hearing is cancelled, the administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting. After review by the Subcommittee, the administrative regulation shall be referred by the Legislative Research Commission to an appropriate jurisdictional committee for a second review. The administrative regulation shall be considered as adopted and in effect as of adjournment on the day the appropriate jurisdictional committee meets or thirty (30) days after being referred by LRC, whichever occurs first.

REPRINT

COMPILER'S NOTE: The language highlighted in **bold** in the Statement of Emergency and Section 5 of 902 KAR 20:016E were inadvertently omitted by the Regulation Compiler's Office from the original publication in the July 1997 Administrative Register. Therefore, this emergency administrative regulation is being republished.

STATEMENT OF EMERGENCY
902 KAR 20:016E

This emergency administrative regulation amends 902 KAR 20:016 to permit hospitals to provide long-term acute inpatient hospital services. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to public health, safety or welfare **in that patients who are unable to acquire more appropriately provided long-term acute care services may unnecessarily subject themselves and others in the community to infection or disease.** The emergency administrative regulation shall be replaced by an ordinary administrative regulation. The notice of intent to promulgate an administrative regulation will be filed with the Regulations Compiler at the same time as this emergency administrative regulation is filed.

PAUL E. PATTON, Governor
JOHN MORSE, Secretary

CABINET FOR HEALTH SERVICES
Office of Inspector General

902 KAR 20:016E. Hospitals; operations and services.

RELATES TO: KRS 214.175, 216B.010 to 216B.130, 216B.990, Chapter 310, 311.241 to 311.247, 311.990, 42 CFR 412.23(e)

STATUTORY AUTHORITY: KRS 216B.042, 216B.105, 314.011(8), 314.042(8), 320.240(14), 42 USC 263a, EO 96-862
EFFECTIVE: June 12, 1997

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 mandate that the Kentucky Cabinet for Health Services regulate health facilities and health services. This administrative regulation provides for the minimum licensure requirements for the operation of hospitals and the basic services to be provided by hospitals. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Office of Inspector General and its programs under the Cabinet for Health Services.

Section 1. Definitions. (1) "Accredited record technician" means a person who has graduated from a program for medical record technicians accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and who is certified as an accredited Record Technician by the American Medical Record Association.

(2) "Certified radiation operator" means a person who has been certified pursuant to KRS 211.870 and 902 KAR 105:010 to 105:070 as an operator of radiation producing machines.

(3) "Governing authority" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the institution is vested.

(4) "Induration" means a firm area in the skin which develops as a reaction to the intradermal injection of five (5) tuberculin units of purified protein derivative by the Mantoux technique when a person has tuberculosis infection.

(5) "Medical staff" means an organized body of physicians, and dentists when applicable, appointed to the hospital staff by the governing authority.

(6) "Organ procurement agency" means a federally designated organization which coordinates and performs activities which encourage the donation of organs or tissues for transplantation.

(7) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(8) "Psychiatric unit" means a department of a general acute care hospital consisting of eight (8) or more psychiatric beds organized for the purpose of providing psychiatric services.

(9) "Registered, certified or registry-eligible dietitian" means a person who is certified in accordance with KRS Chapter 310.

(10) "Registered records administrator" means a person who is certified as a registered records administrator by the American Medical Record Association.

(11) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

(12) "Skin test" means a tuberculin skin test utilizing the intradermal (Mantoux) technique using five (5) tuberculin units of purified protein derivative (PPD). The results of the test must be read forty-eight (48) to seventy-two (72) hours after injection and recorded in terms of millimeters of induration.

(13) "Two (2) step skin testing" means a series of two (2) tuberculin skin tests administered seven (7) to fourteen (14) days apart.

Section 2. Scope of Operation and Services. Hospitals are establishments with organized medical staffs and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical.

Section 3. Administration and Operation. (1) Governing authority licensee.

(a) The hospital shall have a recognized governing authority that has overall responsibility for the management and operation of the hospital and for compliance with federal, state, and local laws and administrative regulations pertaining to its operation.

(b) The governing authority shall appoint an administrator whose qualifications, responsibilities, authority, and accountability shall be defined in writing and approved by the governing authority, and shall designate a mechanism for the periodic performance review of the administrator.

(2) Administrator.

(a) The administrator shall act as the chief executive officer and shall be responsible for the management of the hospital, and shall provide liaison between the governing authority and the medical staff.

(b) The administrator shall keep the governing authority fully informed of the conduct of the hospital through periodic reports and by attendance at meetings of the governing authority.

(c) The administrator shall develop an organizational structure including lines of authority, responsibility, and communication, and shall organize the day-to-day functions of the hospital through appropriate departmentalization and delegation of duties.

(d) The administrator shall establish formal means of accountability on the part of subordinates to whom he has assigned duties.

(e) The administrator shall hold interdepartmental and departmental meetings (where appropriate), shall attend or be represented at the meetings on a regular basis, and shall report to such departments as well as to the governing authority the pertinent activities of the hospital.

(3) Administrative records and reports.

(a) Administrative reports shall be established, maintained and utilized as necessary to guide the operation, measure productivity, and reflect the programs of the facility. These reports shall include: minutes of the governing authority and staff meetings, financial records and reports, personnel records, inspection reports, incident investigation reports, and other pertinent reports made in the regular course of business.

(b) The hospital shall maintain a patient admission and discharge register. Where applicable, a birth register and a surgical register shall also be maintained.

(c) Licensure inspection reports and plans of correction shall be made available to the general public upon request.

(4) Policies. The hospital shall have written policies and procedures governing all aspects of the operation of the facility and the services provided, including:

(a) A written description of the organizational structure of the facility including lines of authority, responsibility and communication, and departmental organization;

(b) Admission policies which assure that patients are admitted to the hospital in accordance with policies of the medical staff;

(c) Constraints imposed on admissions by limitations of services, physical facilities, staff coverage or other factors;

(d) Financial requirements for patients on admission;

(e) Emergency admissions;

(f) Requirements for informed consent by patient, parent, guardian or legal representative for diagnostic and treatment procedures;

(g) There shall be an effective procedure for recording accidents involving a patient, visitor, or staff, and incidents of transfusion reactions, drug reactions, medication errors, etc.; and a statistical analysis shall be reported in writing through the appropriate committee;

(h) Reporting of communicable diseases to the health department in whose jurisdiction the disease occurs pursuant to KRS Chapter 214 and 902 KAR 2:020;

(i) Use of restraints and a mechanism for monitoring and controlling their use;

(j) Internal transfer of patients from one (1) level or type of care to another (if applicable);

(k) Discharge and termination of services; and

(l) Organ procurement for transplant protocol developed by the medical staff in consultation with the organ procurement agency.

(5) Patient identification. The hospital shall have a system for identifying each patient from time of admission to discharge (e.g., an identification bracelet imprinted with name of patient, hospital identification number, date of admission, and name of attending medical staff member).

(6) Discharge planning.

(a) The hospital shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(b) The professional staff of the facility involved in the patient's care during hospitalization shall participate in discharge planning of the patient whose illness requires a level of care outside the scope of the general hospital.

(c) The hospital shall coordinate the discharge of the patient with the patient and the person or agency responsible for the postdischarge care of the patient. All pertinent information concerning postdischarge needs shall be provided to the responsible person or agency.

(7) Transfer procedures and agreements.

(a) The hospital shall have written patient transfer procedures and agreements with at least one (1) of each type of other health care facilities which can provide a level of inpatient care not provided by the hospital. Any facility which does not have a transfer agreement in effect but has documented a good faith effort to enter into such an agreement shall be considered to be in compliance with this requirement. The transfer procedures and agreements shall specify the

responsibilities each institution assumes in the transfer of patients and shall establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arranging for appropriate and safe transportation.

(b) If the patient is transferred to another health care facility or to the care of a home health agency, a transfer form shall accompany the patient or be sent immediately to the home health agency. The transfer form shall include at least: attending medical staff member's instructions for continuing care, a current summary of the patient's medical record, information as to special supplies or equipment needed for patient care, and pertinent social information on the patient and family. When such transfer occurs, a copy of the patient's signed discharge summary shall be forwarded to another health care facility or home health agency within thirty (30) days of the patient's discharge.

(c) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(8) Medical staff.

(a) The hospital shall have a medical staff organized under bylaws approved by the governing authority, which is responsible to the governing authority of the hospital for the quality of medical care provided to the patients and for the ethical and professional practice of its members.

(b) The medical staff shall develop and adopt policies or bylaws, subject to the approval of the governing authority, which shall:

1. State the necessary qualifications for medical staff membership including licensure to practice medicine or dentistry in Kentucky, except for graduate physicians in their first year of hospital training. For purposes of this document, medical staff shall mean physicians, and dentists when applicable.

2. Define and describe the responsibilities and duties of each category of medical staff (e.g., active, associate, courtesy, consulting, or honorary), delineate the clinical privileges of staff members and allied health professionals, and establish a procedure for granting and withdrawing staff privileges to include credentials review.

3. Provide a mechanism for appeal of decisions regarding staff membership and privileges.

4. Provide a method for the selection of officers of the medical staff.

5. Establish requirements regarding the frequency of, and attendance at, general staff and department or service meeting of the medical staff.

6. Provide for the appointment of standing and special committees, and include requirements for composition and organization, frequency of and attendance at meetings, and the minutes and reports which shall be part of the permanent records of the hospital. These committees may include: executive committee, credentials committee, medical audit committee, medical records committee, infections control committee, tissue committee, pharmacy and therapeutics committee, utilization review committee, and quality assurance committee.

(9) Personnel.

(a) The hospital shall employ a sufficient number of qualified personnel to provide effective patient care and all other related services and shall have written personnel policies and procedures which shall be available to all hospital personnel.

(b) There shall be a written job description for each position. Job descriptions shall be reviewed and revised as necessary.

(c) There shall be an employee health program for mutual protection of employees and patients including provisions for preemployment and periodic health examination. The hospital shall comply with the following tuberculosis testing requirements:

1. The skin test status of all staff members shall be documented in the employee's personnel record.

a. A skin test shall be initiated on all new staff members before or during the first week of employment and the results shall be

documented in the employee's personnel record within the first month of employment.

b. Skin testing shall not be required at the time of initial employment if the employee documents a prior skin test of ten (10) or more millimeters of induration or if the employee is currently receiving or has completed six (6) months of prophylactic therapy or a course of multiple-drug chemotherapy for tuberculosis.

c. Two (2) step skin testing shall be required for new employees over age forty-five (45) whose initial test shows less than ten (10) millimeters of induration, unless they can document that they have had a tuberculosis skin test within one (1) year prior to their current employment.

d. All staff who have never had a skin test of ten (10) or more millimeters induration shall be skin tested annually on or before the anniversary of their last skin test.

2. All staff who are found to have a skin test of ten (10) or more millimeters induration, on initial employment testing or annual testing, shall receive a chest x-ray unless a chest x-ray within the previous two (2) months showed no evidence of tuberculosis, or the individual can document the previous completion of a course of prophylactic treatment with isoniazid. Such employees shall be advised of the symptoms of the disease and instructed to report to their employer and seek medical attention promptly if symptoms persist.

3. The hospital administrator shall be responsible for ensuring that all skin tests and chest x-rays are done in accordance with subparagraphs 1 and 2 of this paragraph. All skin testing dates and results and all chest x-ray reports shall be recorded as a permanent part of the personnel record.

4. The following shall be reported by the hospital administrator to the local health department having jurisdiction immediately upon becoming known: names of staff who convert from a skin test of less than ten (10) to a skin test of ten (10) millimeters or more induration at the time of employment; and all chest x-rays suspicious for tuberculosis.

5. Any staff whose skin test status changes on annual testing from less than ten (10) to ten (10) or more millimeters of induration shall be considered to be recently infected with Mycobacterium tuberculosis. Such recently infected persons who have no signs or symptoms of tuberculosis disease on chest x-ray or medical history should be given preventive therapy with isoniazid for six (6) months unless medically contraindicated, as determined by a licensed physician. Medications shall be administered only upon the written order of a physician or advanced registered nurse practitioner as authorized in KRS 314.011(8) and 314.042(8). If such individual is unable to take isoniazid therapy, the individual shall be advised of the clinical symptoms of the disease, and have an interval medical history and a chest x-ray taken and evaluated for tuberculosis disease every six (6) months during the two (2) years following conversion, for a total of five (5) chest x-rays.

6. Any staff who can document completion of preventive treatment with isoniazid shall be exempt from further screening requirements.

(d) Current personnel records shall be maintained for each employee which include the following:

1. Name, address, Social Security number;
2. Health records;
3. Evidence of current registration, certification, or licensure of personnel;
4. Records of training and experience;
5. Records of performance evaluation.

(10) Physical and sanitary environment.

(a) The condition of the physical plant and the overall hospital environment shall be maintained in such a manner that the safety and well-being of patients, personnel and visitors are assured.

(b) A person shall be designated responsible for services and for the establishment of practices and procedures in each of the following areas: plant maintenance, laundry operations (if applicable), and

housekeeping.

(c) There shall be an infection control committee charged with the responsibility of investigating, controlling and preventing infections in the hospital. Infection incident reports shall be filed.

(d) There shall be written infection control policies, which are consistent with the Centers for Disease Control guidelines including:

1. Policies which address the prevention of disease transmission to and from patients; visitors and employees, including but not limited to:

a. Universal blood and body fluid precautions;

b. Precautions for infections which can be transmitted by the airborne route; and

c. Work restrictions for employees with infectious diseases.

2. Policies which address the use of environmental cultures. Results of all testing shall be recorded and reported to the Infection Control Committee; and

3. Policies which address the cleaning, disinfection, and sterilization methods used for equipment and the environment.

(e) The hospital shall provide in-service education programs on the cause, effect, transmission, prevention and elimination of infections.

(f) The hospital buildings, equipment, and surroundings shall be kept in a condition of good repair, neat, clean, free from all accumulations of dirt and rubbish, and free from foul, stale or musty odors.

1. An adequate number of housekeeping and maintenance personnel shall be provided.

2. Written housekeeping procedures shall be established for the cleaning of all areas and copies shall be made available to personnel.

3. Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition.

4. Hazardous cleaning solutions, compounds, and substances shall be labeled, stored in closed metal containers and kept separate from other cleaning materials.

5. The facility shall be kept free from insects and rodents with harborage and entrances for these eliminated.

6. Garbage and trash shall be stored in areas separate from those used for preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

(g) Sharp wastes.

1. Sharp wastes, including needles, scalpels, razors, or other sharp instruments used for patient care procedures, shall be segregated from other wastes and placed in puncture resistant containers immediately after use.

2. Needles shall not be purposely bent or broken, or otherwise manipulated by hand as a means of disposal, except as permitted by Centers for Disease Control and Occupational Safety and Health Administration guidelines.

3. The containers of sharp wastes shall either be incinerated on or off site, or be rendered nonhazardous by a technology of equal or superior efficacy, which is approved by both the Cabinet for Health Services (Human Resources) and the Natural Resources and Environmental Protection Cabinet.

4. Nondisposable sharps such as large-bore needles or scissors shall be placed in a puncture resistant container for transport to the Central Medical and Surgical Supply Department in accordance with 902 KAR 20:009, Section 22.

(h) Disposable waste.

1. All disposable waste shall be placed in suitable bags or closed containers so as to prevent leakage or spillage, and shall be handled, stored, and disposed of in such a way as to minimize direct exposure of personnel to waste materials.

2. The hospital shall establish specific written policies regarding handling and disposal of all wastes.

3. The following wastes shall receive special handling:

a. Microbiology laboratory waste which includes viral or bacterial cultures, contaminated swabs, and specimen containers and test

tubes used for microbiologic purposes shall either be incinerated, autoclaved or be rendered nonhazardous by technology of equal or superior efficacy, which is approved by both the Cabinet for Health Services ~~(Human Resources)~~ and the Natural Resources and Environmental Protection Cabinet; and

b. Pathological waste which includes all tissue specimens from surgical or necropsy procedures shall be incinerated.

4. The following wastes shall be disposed of by incineration, or be autoclaved before disposal, or be carefully poured down a drain connected to a sanitary sewer: blood, blood specimens, used blood tubes, or blood products.

5. Any wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment administrative regulations pursuant to 40 CFR 403 and 401 KAR 5:055, Section 9.

6. Any incinerator used for the disposal of waste shall be in compliance with 401 KAR 59:020 and 401 KAR 61:010.

(i) The hospital shall have available at all times a quantity of linen essential to the proper care and comfort of patients.

1. Linens shall be handled, stored, and processed so as to control the spread of infection.

2. Clean linen and clothing shall be stored in clean, dry, dust-free areas designated exclusively for this purpose. Uncovered mobile carts may be used to distribute a daily supply of linen in patient care areas.

3. Soiled linen and clothing shall be placed in suitable bags or closed containers so as to prevent leakage or spillage, and will be handled in such a way as to minimize direct exposure of personnel to soiled linen. Soiled linen shall be stored in areas separate from clean linen.

(11) Medical and other patient records.

(a) The hospital shall have a medical records service with administrative responsibility for medical records. A medical record shall be maintained, in accordance with accepted professional principles, for every patient admitted to the hospital or receiving outpatient services.

1. The medical records service shall be directed by a registered records administrator, either on a full-time, part-time, or consultative basis, or by an accredited record technician on a full-time or part-time basis, and shall have available a sufficient number of regularly assigned employees so that medical record services may be provided as needed.

2. All medical records shall be retained for a minimum of five (5) years from date of discharge, or in the case of a minor three (3) years after the patient reaches the age of majority under state law, whichever is the longer.

3. Provision shall be made for written designation of specific location for storage of medical records in the event the hospital ceases to operate because of disaster, or for any other reason. It shall be the responsibility of the hospital to safeguard both the record and its informational content against loss, defacement, and tampering. Particular attention shall be given to protection from damage by fire or water.

(b) A system of identification and filing to insure the prompt location of a patient's medical record shall be maintained:

1. Index cards shall bear at least the full name of the patient, the birth date, and the medical record number.

2. There shall be a system for coordinating the inpatient and outpatient medical records of any patient whose admission is a result of or related to outpatient services.

3. All clinical information pertaining to inpatient or outpatient services shall be centralized in the patient's medical record.

4. In hospitals using automated data processing, indexes may be kept on punch cards or reproduced on sheets kept in books.

(c) Records of patients are the property of the hospital and shall not be taken from the facility except by court order. This does not preclude the routing of the patient's records, or portion thereof, including x-ray film, to physicians or dentists for consultation.

1. Only authorized personnel shall be permitted access to the

patient's records.

2. Patient information shall be released only on authorization of the patient, the patient's guardian or the executor of his estate.

(d) Medical record contents shall be pertinent and current and shall include the following:

1. Identification data and signed consent forms, including name and address of next of kin, and of person or agency responsible for patient;

2. Date of admission, name of attending medical staff member, and allied health professional in accordance with subsection (8)(b)2 of this section;

3. Chief complaint;

4. Medical history including present illness, past history, family history and physical examination;

5. Report of special examinations or procedures, such as consultations, clinical laboratory tests, x-ray interpretations, EKG interpretations, etc.;

6. Provisional diagnosis or reason for admission;

7. Orders for diet, diagnostic tests, therapeutic procedures, and medications, including patient limitations, signed and dated by the medical staff member or advanced registered nurse practitioner as authorized in KRS 314.011(8) and 314.042(8), or therapeutically-certified optometrists as authorized in KRS 320.240(14);

8. Medical, surgical and dental treatment notes and reports, signed and dated by a physician, or dentist, advanced registered nurse practitioner or therapeutically-certified optometrist when applicable, including records of all medication administered to the patient;

9. Complete surgical record signed by attending surgeon, or oral surgeon, to include anesthesia record signed by anesthesiologist or anesthesiologist, preoperative physical examination and diagnosis, description of operative procedures and findings, postoperative diagnosis, and tissue diagnosis by qualified pathologist on tissue surgically removed;

10. Patient care plan which addresses the comprehensive care needs of the patient, to include the coordination of the facility's service departments that have impact on patient care;

11. Physician's, or dentist's, advanced registered nurse practitioner's or therapeutically-certified optometrist's when applicable, progress notes and nurses' observations;

12. Record of temperature, blood pressure, pulse and respiration;

13. Final diagnosis using terminology in the current version of the International Classification of Diseases or the American Psychiatric Association's Diagnostic and Statistical Manual, as is applicable;

14. Discharge summary, including condition of patient on discharge, and date of discharge;

15. In case of death, autopsy findings, if performed; and

16. In the case of death, an indication that the patient has been evaluated for organ donation in accordance with hospital protocol.

(e) Records shall be indexed according to disease, operation, and attending medical staff member. For indexing, any recognized system may be used.

1. The disease and operative indices shall be developed using a recognized nomenclature, and shall include each specific disease created and each operative procedure performed, and shall include all essential data on each patient having that particular condition;

2. The attending medical staff index shall include all patients attended or seen in consultation by each medical staff member;

3. Indexing shall be current, within six (6) months following discharge of the patient.

(12) Organ donation.

(a) The hospital shall establish and maintain a written organ procurement for transplant protocol, in consultation with an organ procurement agency, which encourages organ donation and identifies potential organ donors.

(b) In cases where an individual has died or death is imminent, the patient's attending physician shall determine, in accordance with the hospital's protocol, whether the patient is a potential organ or

tissue donor.

(c) The hospital protocol shall include:

1. Criteria, developed in consultation with the organ procurement agency for identifying potential donors;
2. Procedures for obtaining consent for organ donation;
3. Procedures for the hospital administrator or his designee to notify the organ procurement agency of potential organ donors;
4. Procedures by which the patient's attending physician or designee in accordance with hospital protocol shall document in the patient's medical record that the organ procurement agency has been notified in the case of potential donors or contraindications to donation.

5. Procedures for the hospital administrator or his designee to report any information about the possible sale, purchase, or brokering of a transplantable organ to the Cabinet for Health Services, Office of the Inspector General, as required by KRS 311.241(3).

(d) A patient with impending or declared brain death or cardiopulmonary death as determined pursuant to KRS 446.400 should not be considered as a potential donor if contraindications are identified and documented in the patient's medical record.

Section 4. Provision of Services. (1) Medical staff services.

(a) Medical care provided in the hospital shall be under the direction of a medical staff member in accordance with staff privileges granted by the governing authority.

(b) The attending medical staff member shall assume full responsibility for diagnosis and care of his patient. Other qualified personnel may complete medical histories, perform physical examinations, record findings, and compile discharge summaries, in accordance with their scope of practice and the hospital's protocols and bylaws.

(c) A complete history and physical examination shall be conducted and recorded within twenty-four (24) hours after admission of the patient.

(d) The attending medical staff member shall state his final diagnosis, assure that the discharge summary is completed and sign the records within thirty (30) days following the patient's discharge.

(e) Physician services shall be available twenty-four (24) hours a day on at least an on-call basis.

(f) There shall be sufficient medical staff coverage for all clinical services of the hospital in keeping with their size and scope of activity.

(2) Nursing service.

(a) The hospital shall have a nursing department organized to meet the nursing care needs of the patients and maintain established standards of nursing practice. A registered nurse, preferably one who has a bachelor of science degree in nursing, shall serve as director of the nursing department.

(b) There shall be a registered nurse on duty at all times.

1. There shall be registered nurse supervision and staff nursing personnel for each service or nursing unit to insure the immediate availability of a registered nurse for all patients on a twenty-four (24) hour basis.

2. There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the service of a registered nurse.

3. There shall be additional registered nurses for surgical, obstetrical, emergency, and other services of the hospital in keeping with their size and scope of activity.

4. All persons not employed by the hospital who render special duty nursing services in the hospital shall be under the supervision of the nursing supervisor of the department or service concerned.

(c) The hospital shall have written nursing care procedures and written nursing care plans for patients. Patient care shall be carried out in accordance with attending medical staff member's orders, nursing process, and nursing care procedures.

1. The nurse shall evaluate the patient by utilizing the nursing process in accordance with KRS 314.011.

2. A registered nurse shall assign staff and evaluate the nursing care of each patient in accordance with the patient's need and the nursing staff available.

3. Nursing notes shall be written and signed on each shift by persons rendering care to patients. The notes shall be descriptive of the nursing care given and shall include information and observations of significance which contribute to the continuity of patient care.

4. Medications shall be administered by a registered nurse, a physician, or dentist except in the case of a licensed practical nurse under the supervision of a registered nurse.

5. Medications or treatments shall not be given without a written order signed by a physician or dentist, when applicable, or advanced registered nurse practitioner as authorized in KRS 314.011(8) and 314.042(8), or therapeutically-certified optometrists as authorized in KRS 320.240(14). Telephone orders for medications shall be given only to a licensed practical or registered nurse or a pharmacist and signed by the physician, dentist, advanced registered nurse practitioner or therapeutically-certified optometrist within twenty-four (24) hours from the time the order is given. Telephone orders may be given to licensed physical, occupational, speech or respiratory therapists in accordance with the therapist's scope of practice and the hospital's protocols.

6. Patient restraints or protective devices, other than bed rails, shall not be used, except in an emergency until the attending medical staff member can be contacted, or upon written or telephone orders of the attending medical staff member. When such restraint is necessary, the least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility and protection. In no case shall a locking restraint be used.

7. Meetings of the nursing staff and other nursing personnel shall be held at least monthly to discuss patient care, nursing service problems, and administrative policies. Written minutes of all meetings shall be kept.

(3) Dietary services.

(a) The hospital shall have a dietary department, organized, directed and staffed to provide quality food service and optimal nutritional care.

1. The dietary department shall be directed on a full-time basis by an individual who by education or specialized training and experience is knowledgeable in food service management.

2. The dietary service shall have at least one (1) registered, certified or registry-eligible dietician either full-time, part-time, or on a consultative basis, to supervise the nutritional aspects of patient care.

3. Sufficient additional personnel shall be employed to perform assigned duties to meet the dietary needs of all patients.

4. The dietary department shall have available for all dietary personnel current written policies and procedures for food storage, handling, and preparation.

5. An in-service training program, which shall include the proper handling of food, safety and personal grooming, shall be given at least quarterly for new dietary employees.

(b) Menus shall be planned, written and rotated to avoid repetition. Nutritional needs shall be met in accordance with recommended dietary allowances of the Food and Nutrition Board of the National Research Council of the National Academy of Sciences and in accordance with the medical staff member's orders.

(c) Meals shall correspond with the posted menu. When changes in menu are necessary, substitution shall provide equal nutritive value and the changes shall be recorded on the menu. Menus shall be kept on file for thirty (30) days.

(d) All diets, regular and therapeutic, shall be prescribed in writing, dated, and signed by the attending medical staff member. Information on the diet order shall be specific and complete and shall include the title of the diet, modifications in specific nutrients stating the amount to be allowed in the diet, and specific problems that may affect the diet or eating habits.

(e) Food shall be prepared by methods that conserve nutritive

value, flavor, and appearance, and shall be served at the proper temperatures and in a form to meet individual needs (e.g., it shall be cut, chopped, or ground to meet individual patient needs).

(f) If a patient refuses foods served, nutritious substitutions shall be offered.

(g) At least three (3) meals or their equivalent shall be served daily with not more than a fifteen (15) hour span between a substantial evening meal and a breakfast unless otherwise directed by the attending medical staff member. Meals shall be served at regular times with between-meal or bedtime snacks of nourishing quality offered.

(h) There shall be at least a three (3) day supply of food available in the facility at all times to prepare well-balanced palatable meals for all patients.

(i) There shall be an identification system for patient trays, and methods used to assure that each patient receives the appropriate diet as ordered.

(j) The hospital shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (~~Kentucky's Food Service Establishment Act and Food Service Code~~).

(4) Laboratory services. The hospital shall have a well-organized, adequately supervised laboratory with the necessary space, facilities and equipment to perform those services commensurate with the hospital's needs for its patients. Anatomical pathology services and blood bank services shall be available either in the hospital or by arrangement with other facilities.

(a) Clinical laboratory. Basic clinical laboratory services necessary for routine examinations shall be available regardless of the size, scope and nature of the hospital.

1. Equipment necessary to perform the basic tests shall be provided by the hospital.

2. All equipment shall be in good working order, routinely checked, and precise in terms of calibration.

3. Provision shall be made to carry out adequate clinical laboratory examinations including chemistry, microbiology, hematology, serology, and clinical microscopy.

a. Some of these services may be provided through arrangements with another licensed hospital which has the appropriate laboratory facilities, or with an independent laboratory licensed pursuant to KRS 333.030 and any administrative regulations promulgated thereunder.

b. When work is performed by an outside laboratory, the original report from this laboratory shall be contained in the patient's medical record.

4. Laboratory facilities and services shall be available at all times.

a. Adequate provision shall be made to assure the availability of emergency laboratory services twenty-four (24) hours a day, seven (7) days a week, including holidays, either in the hospital or under arrangements as specified in paragraph (a)3a of this subsection.

b. Where services are provided by an outside laboratory, the conditions, procedures, and availability of such services shall be in writing and available in the hospital.

5. There shall be a clinical laboratory director and a sufficient number of supervisors, technologists and technicians to perform promptly and proficiently the tests requested of the laboratory. The laboratory shall not perform procedures and tests which are outside the scope of training of the laboratory personnel.

6. Laboratory services shall be under the direction of a pathologist or other doctor of medicine or osteopathy with training and experience in clinical laboratory services, or a laboratory specialist with a doctoral degree in physical, chemical or biological sciences, and training and experience in clinical laboratory services.

7. Signed reports of all laboratory services provided shall be filed with the patient's medical record and duplicate copies kept in the department.

a. The laboratory report shall be signed by the technologist who performed the test.

b. There shall be a procedure for assuring that all requests for laboratory tests are ordered and signed by qualified personnel in accordance with their scope of practice and the hospital's protocols and bylaws.

(b) Anatomical pathology. Anatomical pathology services shall be provided as indicated by the needs of the hospital either in the hospital or under arrangements as specified in paragraph (a)3a of this subsection.

1. Anatomical pathology services shall be under the direct supervision of a pathologist on a full-time, regular part-time or regular consultative basis. If the latter pertains, the hospital shall provide for at least monthly consultative visits by a pathologist.

2. The pathologist shall participate in staff, departmental and clinicopathologic conference.

3. The pathologist shall be responsible for establishing the qualifications of staff and for their in-service training.

4. With exceptions of those exclusions listed in written policies of the medical staff, all tissues removed at surgery shall be macroscopically, and if necessary, microscopically examined by the pathologist.

a. A list of tissues which do not routinely require microscopic examination shall be developed in writing by the pathologist or designated physician with the approval of the medical staff.

b. A tissue file shall be maintained in the hospital.

c. In the absence of a pathologist, there shall be an established plan for sending to a pathologist outside the hospital all tissues requiring examination.

5. Signed reports of tissue examinations shall be promptly filed with the patient's medical record and duplicate copies kept in the department.

a. All reports of macro and microscopic examinations performed shall be signed by the pathologist.

b. Provision shall be made for the prompt filing of examination results in the patient's medical record and notification of the medical staff member requesting the examination.

c. Duplicate copies of the examination reports shall be filed in the laboratory in a manner which permits ready identification and accessibility.

(c) The laboratory shall meet the proficiency testing and quality control provisions in accordance with certification requirements under 42 USC Part 263a.

(d) Blood bank. Facilities for procurement, safekeeping and transfusion of blood and blood products shall be provided or be readily available.

1. The hospital shall maintain, as a minimum, proper blood storage facilities under adequate control and supervision of the pathologist or other authorized physician.

2. For emergency situations the hospital shall maintain at least a minimum blood supply in the hospital at all times, shall be able to obtain blood quickly from community blood banks or institutions, or shall have an up-to-date list of donors and equipment necessary to bleed them.

3. If the hospital utilizes outside blood banks, there shall be a written agreement governing the procurement, transfer and availability of blood.

4. There shall be a provision for prompt blood typing and cross-matching and for laboratory investigation of transfusion reactions, either through the hospital or by arrangements with others on a continuous basis, under the supervision of a physician.

5. Blood storage facilities in the hospital shall have an adequate alarm system, which shall be regularly inspected and tested and is otherwise safe and adequate.

6. Records shall be kept on file indicating the receipt and disposition of all blood provided to patients in the hospital.

7. A committee of the medical staff or its equivalent shall review all transfusions of blood or blood derivatives and shall make recommendations concerning policies governing such practices.

8. Samples of each unit of blood used at the hospital shall be

retained, according to the instructions of the committee indicated in subparagraph 7 of this paragraph, for further testing in the event of reactions. Blood not so retained which has exceeded its expiration date shall be disposed of promptly.

9. The review committee shall investigate all transfusion reactions occurring in the hospital and shall make recommendations to the medical staff regarding improvements in transfusion procedures.

(5) Pharmaceutical services.

(a) The hospital shall have adequate provisions for the handling, storing, recording, and distributing of pharmaceuticals in accordance with state and federal laws and administrative regulations.

1. A hospital which maintains a pharmacy for the compounding and dispensing of drugs shall provide pharmaceutical services under the supervision of a registered pharmacist on a full-time or part-time basis, according to the size and demands of the hospital.

a. The pharmacist shall be responsible for supervising and coordinating all the activities of the pharmacy department.

b. Additional personnel competent in their respective duties shall be provided in keeping with the size and activity of the department.

2. Hospitals not maintaining a pharmacy shall have a drug room utilized only for the storage and distribution of drugs, drug supplies and equipment. Prescription medications shall be dispensed by a registered pharmacist elsewhere. The drug room shall be operated under the supervision of a pharmacist employed at least on a consultative basis.

a. The consulting pharmacist shall assist in drawing up correct procedures, rules for the distribution of drugs, and shall visit the hospital on a regularly scheduled basis in the course of his duties.

b. The drug room shall be kept locked and the key shall be in the possession of a responsible person on the premises designated by the administrator.

(b) Records shall be kept of the transactions of the pharmacy or drug room and correlated with other hospital records where indicated.

1. In accordance with accounting procedures of the hospital, the pharmacy shall establish and maintain a system of records and bookkeeping in accordance with policies of the hospital for maintaining adequate control over the requisitioning and dispensing of all drugs and drug supplies and charging patients for drugs and pharmaceutical supplies.

2. A record of the stock on hand and of the dispensing of all controlled substances shall be maintained in such a manner that the disposition of any particular item may be readily traced.

(c) The medical staff in cooperation with the pharmacist and other disciplines, as necessary, shall develop policies and procedures that govern the safe administration of drugs, including:

1. The administration of medications only upon the order of an individual who has been assigned clinical privileges or who is an authorized member of the house staff;

2. Review of the original order, or a direct copy by the pharmacist dispensing the drugs;

3. The establishment and enforcement of automatic stop orders;

4. Proper accounting for and disposition of unused medications or special prescriptions returned to the pharmacy as a result of patient being discharged, or when such medications or prescriptions do not meet sterile and label requirements;

5. Provision for emergency pharmaceutical services; and

6. Provision for reporting adverse medication reactions to the appropriate committee of the medical staff.

(d) Therapeutic ingredients of medications dispensed shall be included in the United States Pharmacopoeia, National Formulary, United States Homeopath-Pharmacopoeia, New Drugs, or Accepted Dental Remedies (except for any drugs unfavorably evaluated therein), or shall be approved for use by the appropriate committee of the medical staff.

1. A pharmacist shall be responsible for determining specifications and choosing acceptable sources for all drugs, with approval of the appropriate committee of the medical staff.

2. There shall be available a formulary or list of drugs accepted for use in the hospital which shall be developed and amended at regular intervals by the appropriate committee of the medical staff.

(6) Radiology services.

(a) The hospital shall have diagnostic radiology facilities. The radiology service shall have a current license or registration pursuant to KRS 211.842 to 211.852 and any administrative regulations promulgated thereunder.

1. The hospital shall provide at least one (1) fixed diagnostic x-ray unit which is capable of general x-ray procedures.

2. The hospital shall have a radiologist on at least a consulting basis to function as medical director of the department and to interpret films that require specialized knowledge for accurate reading.

3. Personnel adequate to supervise and conduct the services shall be provided, and at least one (1) certified radiation operator shall be on duty or on call at all times.

(b) There shall be written policies and procedures governing radiologic services and administrative routines that support sound radiologic practices.

1. Signed reports shall be filed in the patient's record and duplicate copies kept in the department.

2. Radiologic services shall be performed only upon written order of qualified personnel in accordance with their scope of practice and the hospital's protocols and bylaws, and the order shall contain a concise statement of the reason for the service or examination.

3. Reports of interpretations shall be written or dictated and signed by the radiologist.

4. The use of all x-ray apparatus shall be limited to certified radiation operators, under the direction of medical staff members as necessary. The same limitation shall apply to personnel applying and removing radium element, its disintegration products, and radioactive isotopes.

(c) The radiology department shall be free of hazards for patients and personnel. Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards and radiation hazards.

(7) Physical restoration or rehabilitation service. If the hospital provides rehabilitation, work hardening, physical therapy, occupational therapy, audiology, or speech pathology services, the services shall be organized and staffed to insure the health and safety of patients.

(a) Hospitals in which physical restoration or rehabilitation services are available shall provide individualized techniques required to achieve maximum physical function normal to the patient while preventing unnecessary debilitation and immobilization.

(b) Written policies and procedures shall be developed for each rehabilitation service provided.

(c) A member of the medical staff shall be designated to have responsibility for coordinating the restorative services provided to the patients in accordance with their needs.

(d) Equipment for therapy shall be adequate to meet the needs of the service and shall be in good condition.

(e) Therapy services shall be provided only upon written orders of qualified personnel in accordance with their scope of practice and according to the hospital's protocols and bylaws.

(f) Therapy services shall be provided by or under the supervision of a licensed therapist, on a full-time, part-time or consultative basis.

(g) Complete therapy reports shall be maintained for each patient provided such services. The reports shall be signed by the therapist who prepared it and shall be a part of the patient's medical record.

(8) Emergency services.

(a) Every hospital shall have procedures for taking care of the emergency patient with at least a registered nurse on duty to evaluate the patient and a physician on call.

(b) If the facility has an organized emergency department or service, policies and an emergency care procedures manual governing medical and nursing care provided in the emergency room shall be established by and be a continuing responsibility of the medical staff.

1. The emergency service shall be under the direction of a licensed physician. Medical staff members shall be available at all times for the emergency service, either on duty or on call. Current schedules and telephone numbers shall be posted in the emergency room.

2. Nursing personnel shall be assigned to, or designated to cover, the emergency service at all times.

3. Facilities shall be provided to assure prompt diagnosis and emergency treatment. A specific area of the hospital shall be utilized for patients requiring emergency care on arrival. The emergency area shall be located in close proximity to an exterior entrance of the facility and shall be independent of the operating room suite.

4. Diagnostic and treatment equipment, drugs, and supplies shall be readily available for the provision of emergency services and shall be adequate in terms of the scope of services provided.

5. Adequate medical records shall be kept on every patient seen in the emergency room. These records shall be under the supervision of the Medical Record Service and, where appropriate, shall be integrated with inpatient and outpatient records. Emergency room records shall include at least:

a. A log book listing chronologically the patient visits to the emergency room including patient identification, means of arrival and person transporting patient, and time of arrival;

b. History of present complaint and physical findings;

c. Laboratory and x-ray reports, where applicable;

d. Diagnosis;

e. Treatment ordered and details of treatment provided;

f. Patient disposition;

g. Record of all referrals;

h. Instructions to the patient or family for those not admitted to the hospital; and

i. Signatures of attending medical staff member, and nurse when applicable.

(9) Outpatient services.

(a) A hospital which has an organized outpatient department shall have written policies and procedures relating to the staff, functions of service, and outpatient medical records.

(b) The outpatient department shall be organized in sections (clinics), the number of which shall depend on the size and degree of departmentalization of the medical staff, the available facilities, and the needs of the patient it serves.

(c) The outpatient department shall have appropriate cooperative arrangements and communications with community agencies such as home health agencies, the local health department, social and welfare agencies, and other outpatient departments.

(d) Services offered by the outpatient department shall be under the direction of a physician who is a member of the medical staff.

1. A registered nurse shall be responsible for the nursing services of the department.

2. The number and type of other personnel employed shall be determined by the volume and type of services provided and type of patient served in the outpatient department.

(e) Necessary laboratory and other diagnostic tests shall be available either through the hospital or a laboratory in another licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any administrative regulations promulgated thereunder.

(f) Medical records shall be maintained and, where appropriate, coordinated with other hospital medical records.

1. The outpatient medical record shall be filed in a location which insures ready accessibility to the medical staff members, nurses, and other personnel of the outpatient department.

2. Information in the medical record shall be complete and sufficiently detailed relative to the patient's history, physical examination, laboratory and other diagnostic tests, diagnosis, and treatment to facilitate continuity of care.

(10) Surgery services.

(a) Hospitals in which surgery is performed shall have an

operating room and a recovery room supervised by a registered nurse qualified by training, experience and ability to direct surgical nursing care.

1. Sufficient surgical equipment including suction facilities and instruments in good repair shall be provided to assure safe and aseptic treatment of all surgical cases.

2. When flammable anesthetics are used, precautions shall be taken to eliminate hazards of explosions, including use of shoes with conductive soles and prohibition of garments or other items of silk, wool, or synthetic fibers which accumulate static electricity.

(b) There shall be effective policies and procedures regarding surgical staff privileges, functions of the service, and evaluation of the surgical patient.

1. Surgical privileges shall be delineated for all members of the medical staff doing surgery in accordance with the competencies of each, and a roster shall be maintained.

2. Except in emergencies, a surgical operation or other hazardous procedures shall be performed only on written consent of the patient or his legal representative.

3. The operating room register shall be complete and up to date. It shall include the patient's name; hospital room number; preoperative and postoperative diagnosis; complications, if any; names of surgeon, first assistant, anesthesiologist or anesthetist, scrub and circulating nurse; operation performed; and type of anesthesia.

4. There shall be a complete history and physical workup in the chart of every patient prior to surgery. If such has been transcribed but not yet recorded in the patient's chart, there shall be a statement to that effect and an admission note by the attending medical staff member in the chart. The chart of the patient shall accompany him to the operating suite and shall be returned to the patient's floor or room after the operation.

5. An operative report describing the techniques and findings shall be written or dictated immediately following surgery and signed by the surgeon.

6. All tissues removed by surgery shall be placed in suitable solutions, properly labeled, and submitted to the pathologist for macroscopic and, if necessary, microscopic examinations.

7. All infections of clean surgical cases shall be recorded and reported to the appropriate committee of the medical staff. A procedure shall exist for the investigation of such cases.

(c) Rules and policies related to the operating rooms shall be available and posted.

(11) Anesthesia services.

(a) The hospital which provides surgical or obstetrical services shall have anesthesia services available, and these services shall be organized under written policies and procedures regarding staff privileges, the administration of anesthetics, and the maintenance of safety controls.

(b) A physician member of the medical staff shall be the medical director of anesthesia services. Whenever possible, the director shall be a physician specializing in anesthesiology.

(c) If anesthetics are not administered by an anesthesiologist, the medical staff shall designate a medical staff anesthetist or a registered nurse anesthetist qualified to administer anesthetics under the supervision of the operating surgeon.

(d) Every patient requiring anesthesia services shall have a preanesthetic physical examination by a medical staff member with findings recorded within forty-eight (48) hours of surgery, an anesthetic record on a special form, a postanesthetic follow-up, with findings recorded by the anesthesiologist, medical staff anesthetist, or nurse anesthetist.

(e) The postanesthetic follow-up note shall be written upon discharge from the postanesthesia recovery area or within three (3) to twenty-four (24) hours after the procedures which required anesthesia. This note shall include a record of blood pressure, pulse, presence or absence of the swallowing reflex and cyanosis, any postoperative abnormalities or complications, and the general

condition of the patient.

(12) Obstetrics service.

(a) Hospitals providing obstetrical care of patients shall have adequate space, necessary equipment and supplies, and a sufficient number of nursing personnel to assure safe and aseptic treatment of mothers and newborns and provide protection from infection and cross-infection.

1. The obstetrics service shall be under the medical direction of a physician and under the supervision of a registered nurse qualified by training, experience, and ability to direct effective obstetrical and newborn nursing care. In hospitals where the obstetrical caseload does not justify a separate nursing staff, obstetrical nurses shall be designated and shall be oriented to the specific needs of obstetrical patients.

2. A registered nurse shall be on duty in the labor and delivery unit whenever any patient is in the unit. Each obstetrics patient shall be kept under close observation by professional personnel during the period of recovery after delivery, whether in the delivery room or in a recovery area, until she is transferred to the maternity unit.

3. An on-call schedule or other suitable arrangement shall be provided to ensure that a physician who is experienced in obstetrics is readily available for consultation and obstetrical emergencies.

4. Provisions shall be made for the care of patients in labor with adequately equipped labor rooms.

(b) An adequate supply of prophylaxis for the prevention of infant blindness shall be kept on hand and administered within thirty (30) minutes after delivery.

(c) The hospital shall comply with the provisions of KRS 214.155 and 902 KAR 4:030 in administering tests for inborn errors of metabolism to infants.

(d) There shall be an acceptable method and procedure for the positive associative identification of the mother and infant. This shall be done in the delivery room at the time of birth and shall remain in place during the entire period of hospitalization.

(e) An up-to-date register book of all deliveries shall be maintained containing the following information:

1. Infant's full name, sex, date, time of birth and weight;
2. Mother's full name, including maiden name, address, birthplace and age at time of this birth;
3. Father's full name, birthplace, age at time of this birth; and
4. Full name of attending physician or nurse midwife.

(f) Each hospital providing maternity service shall provide a nursery which shall not be used for any other purpose. Specific routines for daily care of infants and their environment shall be prepared in writing and posted in the nursery workroom.

(g) A policy shall be established for deliveries occurring outside the delivery room and for patients who are infectious.

(h) Written policies and procedures shall be developed to cover alternative use of obstetrical beds.

(i) The hospital shall comply with the provisions of KRS 214.175 in participating in surveys relating to the determination of alcohol or other substance abuse among pregnant women and newborn infants.

(13) Pediatric services.

(a) Hospitals providing pediatric care shall have proper facilities for the care of children apart from the newborn and maternity nursing services. If there is not a separate area permanently designated as the pediatric unit, there shall be an area within an adult care unit for pediatric patient care. There shall be available beds and other equipment which are appropriate in size for pediatric patients.

(b) There shall be proper facilities and procedures for the isolation of children with infectious, contagious or communicable conditions. At least one (1) patient room shall be available for isolation use.

(c) A physician with pediatric experience shall be on call at all times for the care of pediatric patients.

(d) Pediatric nursing care shall be under the supervision of a registered nurse qualified by training, experience and ability to direct effective pediatric nursing. All nursing personnel assigned to pediatric

service shall be oriented to the special care of children.

(e) Policies shall be established to cover conditions under which parents may stay with small children or "room-in" with their hospitalized child for moral support and assistance with care.

(14) Psychiatric services. Hospitals which have a psychiatric unit shall designate the location and number of beds to be licensed as psychiatric beds and meet the requirements of psychiatric hospitals operations and services, licensure administrative regulation.

(15) Chemical dependency treatment services. Hospitals providing chemical dependency treatment services shall meet the requirements of 902 KAR 20:160, Chemical dependency treatment services and facility specifications, Section 3, Administrative and Operation and Section 4, Provision of Services, and designate location and the number of beds to be used for this purpose.

(16) Medical library.

(a) The hospital shall maintain appropriate medical library services according to the professional and technical needs of hospital personnel.

(b) The medical library shall be in a location accessible to the professional staff, and its contents shall be organized and available at all times to the medical and nursing staffs.

Section 5. Long-term Acute Inpatient Hospital Services. (1) A hospital licensed pursuant to this administrative regulation and seeking to qualify for available Title XVIII Medicare reimbursement may provide long-term acute inpatient hospital services pursuant to applicable federal law and upon the following conditions:

(a) The area of the hospital designated to provide long-term acute inpatient hospital services shall have:

1. An average length of inpatient stay greater than twenty-five (25) days.

2. A separate governing body.

3. A separate medical staff.

4. A separate chief executive officer.

(b) All services shall be provided through the use of employees or under contracts or other agreements with entities other than the host hospital or a third entity that controls both the hospital and the area designated to provide long-term acute inpatient hospital services, except that food and dietetic services, housekeeping, maintenance and other services necessary to maintain a clean and safe physical environment may be obtained under contracts or other agreements with the host hospital or a third entity that controls both the host hospital and the area designated to provide long-term acute inpatient hospital services or as otherwise permitted by federal law.

(c) Hospitals wishing to provide long-term acute inpatient hospital services may request authorization from the Division of Licensing and Regulation, Office of Inspector General, Cabinet for Health Services. The Division of Licensing and Regulation shall conduct a survey to determine whether the requirements of this section are met and shall notify the hospital of the survey results by letter.

TIMOTHY L. VENO, Inspector General

JOHN MORSE, Secretary

APPROVED BY AGENCY: June 10, 1997

FILED WITH LRC: June 12, 1997 at 2 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ralph Von Derau

(1) Type and number of entities affected: There are presently 107 licensed acute care hospitals.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the Notice of Intent public hearing.

(b) Cost of doing business in the geographical area in which the

administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the Notice of Intent public hearing.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: No additional reporting requirements imposed.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Survey costs to determine whether the requirements for providing long-term inpatient hospital services are met.

1. First year: Unable to anticipate.

2. Continuing costs or savings: Unable to anticipate.

3. Additional factors increasing or decreasing costs: No additional factors.

(b) Reporting and paperwork requirements: Paperwork related to surveys and notification of survey results.

(4) Assessment of anticipated effect on state and local revenues: No effect.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: General funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: To be determined after the Notice of Intent public hearing.

(b) Kentucky: To be determined after the Notice of Intent public hearing.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS Chapter 216B mandates that minimum standards be established for licensure.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: These are minimum health care standards intended to protect the public.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: Hospitals would be unable to provide long-term acute inpatient hospital services.

(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication. 42 CFR 412.23(e)

(a) Necessity of proposed regulation if in conflict: No conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions?

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. This is a licensure program and, as such, applies to all licensed services.

NOTICES OF INTENT TO PROMULGATE ADMINISTRATIVE REGULATIONS

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

June 24, 1997

Kentucky Higher Education Assistance Authority

(1) The subject matter of the administrative regulation is **11 KAR 6:010**, KHEAA Work Study Program.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an amendment to Section 1 and to add a new Section 4 of the administrative regulation governing the subject matter listed above, particularly, to add to Section 1 definitions of "administrative cost allowance" and several terms defined in the enabling statutes; to amend the definition of "cost of education" in Section 1 to raise the allowable expense for mileage from 22 cents per mile to 25 cents per mile; and to add a new Section 4 setting forth the method of allocating funds among eligible institutions.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 29, 1997, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601-4323.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to August 29, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601-4323, (502) 564-7990.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 13A.100, 13A.110, 164.748(4).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will amend 11 KAR 6:010, as follows:

1. Section 1. The Kentucky Higher Education Assistance Authority intends to amend that section of the administrative regulation to:

a. Add a definition of "administrative cost allowance" to read "Administrative cost allowance" means a payment negotiated between the authority and participating institutions for annual costs directly related to the administration of the KWSP not to exceed 8 percent of the gross wages earned, the amount requested by the institution, or \$15,000 annually, whichever is least.";

b. Add references to statutory definitions for "authority" "college, "business", "school, school of nursing", "vocational school", and "work study"; and

c. Amending the definition of "cost of education" to increase the allowable expense that may be included in the student budget for mileage from 22 cents per mile to 25 cents per mile.

2. Section 4. A new section 4 will be added to provide that the authority shall invite eligible educational institutions to submit requests for funding each year. The authority shall consider the past performance of the institution in the KHEAA Work Study Program, the institution's level of participation in and administration of other programs funded by the authority, and the institution's needs reflected in the request for funding in determining approval and level of KWSP funding. If funds are insufficient to honor all properly submitted and timely requests for funds, the authority may consider the foregoing factors in allocating available funds among all or some of the institutions requesting funds.

(c) The necessity and function of the proposed administrative regulation is as follows: To revise the rate at which mileage expense incurred by a student may be included in the budget of educational costs and to provide for the allocation of funds among participating institutions.

(d) The benefits expected from the administrative regulation are: Students incurring mileage expense for transportation to and from their work site will have their budgeted educational costs, that are reimbursable under this program, increased from 22 cents per mile to 25 cents per mile. Educational institutions will be informed of the standards used in the determination of funding.

(e) The administrative regulation will be implemented as follows: Participating institutions are responsible for preparing the budget of students' educational costs. Those institutions will budget mileage at 25 cents per mile rather than the current 22 cents per mile. Educational institutions will submit requests for funding to the authority each year, by dates and in accordance with instructions specified by the authority in the invitation of the authority. The authority will evaluate the requests taking into consideration the past performance and funding of the institution under this program as well as the institution's level of participation and administrative capability under other programs administered by the authority.

ADMINISTRATIVE REGISTER - 280

REVENUE CABINET Department of Law Division of Tax Policy

July 14, 1997
Revenue Cabinet
Department of Law
Division of Tax Policy

- (1) **103 KAR 7:060** - Enterprise zone local property tax incentives.
- (2) The Revenue Cabinet intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 29, 1997, at 10 a.m., at 200 Fair Oaks Lane, Third Floor - Training Room A, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 29, 1997, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Debra Gabbard, Tax Consultant, Kentucky Revenue Cabinet, Division of Tax Policy, 200 Fair Oaks Lane, Third Floor, Frankfort, Kentucky 40620, Telephone: (502) 564-6843 Ext. *4443, Fax: (502) 564-9565.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Revenue Cabinet at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the enterprise zone local property tax incentive is KRS 131.130(1).
 - (b) The administrative regulation that the Kentucky Revenue Cabinet intends to promulgate will not amend an existing administrative regulation. It will establish the procedure for making an application with the local government body which established the enterprise zone.
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 154.45-090 allows for a reduced rate on the tax levied pursuant to KRS Chapter 132. KRS 131.130(1) requires the cabinet to make administrative regulations for the administration of all tax laws. This administrative regulation establishes the procedures required for the implementation of KRS 154.45-090(8).
 - (d) The benefits expected from the administrative regulation are:
 1. Improved taxpayer education;
 2. Increased understanding by local governments; and
 3. Increased understanding by property value administrators in administering the tax incentive.
 - (e) The administrative regulation will be implemented as follows: The provisions of this administrative regulation will be incorporated into the instructions of Revenue Form 62A500, Tangible Property Tax Return and other publications issued by the Revenue Cabinet. Informational materials will also be provided to the property valuation administrators on the administration of the rate reduction for real property.

July 14, 1997
Revenue Cabinet
Department of Law
Division of Tax Policy

- (1) **103 KAR 16:220** - Enterprise zone tax credit.
- (2) The Revenue Cabinet intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 29, 1997, at 10 a.m., at 200 Fair Oaks Lane, Third Floor - Training Room A, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 29, 1997, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Jennifer C. Hays, Tax Consultant, Kentucky Revenue Cabinet, Division of Tax Policy, 200 Fair Oaks Lane, Third Floor, Frankfort, Kentucky 40620, Telephone: (502) 564-6843, extension *4435, Fax: (502) 564-9565, E-mail: jhays@mail.state.ky.us.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Revenue Cabinet at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the enterprise zone tax credit is KRS 131.130(1) and 141.050(4).

ADMINISTRATIVE REGISTER - 281

(b) The administrative regulation that the Kentucky Revenue Cabinet intends to promulgate will not amend an existing administrative regulation. It will establish the required form to report the income tax credit and the procedure for reporting the credit.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 154.45-090 allows a credit against the tax levied pursuant to KRS 141.040. KRS 131.130(1) and 141.050(4) requires the cabinet to make administrative regulations for the administration of all tax laws. This administrative regulation establishes the form and procedures required for the implementation of KRS 154.45-090(7).

(d) The benefits expected from the administrative regulation are:

1. Improved corporate taxpayer education;
2. Fewer mistakes made by corporate taxpayers on returns filed; and
3. Fewer adjustments made by the cabinet to income tax returns filed.

(e) The administrative regulation will be implemented as follows: The provisions of this administrative regulation will be incorporated into the instructions of Revenue Form 720, Kentucky Corporation Income and License Tax Return, and other publications issued by the Revenue Cabinet.

July 14, 1997

Revenue Cabinet

Department of Law

Division of Tax Policy

(1) **103 KAR 30:240** - Enterprise zone exemptions.

(2) The Revenue Cabinet intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 29, 1997, at 10 a.m., at 200 Fair Oaks Lane, Third Floor - Training Room A, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 29, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Charlotte T. Quarles, Tax Consultant, Kentucky Revenue Cabinet, Division of Tax Policy, 200 Fair Oaks Lane, Third Floor, Frankfort, Kentucky 40620, Telephone: (502) 564-6843, Ext. *4442, Fax: (502) 564-9565.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Revenue Cabinet at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the enterprise zone sales and use tax exemptions is KRS 131.130(1), 139.710 and 154.45-110.

(b) The administrative regulation that the Kentucky Revenue Cabinet intends to promulgate will not amend an existing administrative regulation. It will establish the required forms to claim the sales and use tax exemptions, the procedure for the seller to report the exempt sales and the process for the collection of the tax information relating to enterprise zone exemptions.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 131.130(1) and 139.710 requires the cabinet to make administrative regulations for the administration of the tax laws. This administrative regulation establishes the form and procedures required for the implementation of KRS 154.45-090(2), and (3).

(d) The benefits expected from the administrative regulation are:

1. Improved taxpayer education and voluntary compliance; and
2. Improved accuracy of collecting tax data relating to the enterprise zone sales and use tax exemptions.

(e) The administrative regulation will be implemented as follows: The provisions of this administrative regulation will be implemented as soon as they are effective and will be incorporated into publications issued by the Revenue Cabinet.

July 14, 1997

Revenue Cabinet

Department of Law

Division of Tax Policy

(1) **103 KAR 44:050** - Enterprise zone exemption.

(2) The Revenue Cabinet intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 29, 1997, at 10 a.m., at 200 Fair Oaks Lane, Third Floor - Training Room A, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 29, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Eddie Mattingly, Tax Consultant, Kentucky Revenue Cabinet, Division of Tax Policy, 200 Fair Oaks Lane, Third Floor, Frankfort, Kentucky 40620, Telephone: (502) 564-6843, extension *4431, Fax: (502) 564-9565.

(b) On a request for public hearing, a person shall state:

ADMINISTRATIVE REGISTER - 282

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Revenue Cabinet at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the enterprise zone exemptions from motor vehicle usage tax is KRS 131.130(1).
 - (b) The administrative regulation that the Kentucky Revenue Cabinet intends to promulgate will not amend an existing administrative regulation. It will clarify when a vehicle owned by a qualified enterprise zone business qualifies for exemption and establish the required form and the procedure to claim the exemption.
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 154.45-090 allows exemption against the tax levied pursuant to KRS 138.460. KRS 131.130(1) authorizes the cabinet to make administrative regulations for the administration of all tax laws. This administrative regulation establishes the form and procedures required for the implementation of KRS 154.45-090(4) and (5).
 - (d) The benefits expected from the administrative regulation are:
 1. Taxpayer understanding of when a vehicle qualifies for exemption; and
 2. Decreased number of assessments issued for nonqualifying vehicles for which exemption is claimed.
 - (e) The administrative regulation will be implemented as follows: The provisions of this administrative regulation will be incorporated into the instructions of Revenue Form 71A151, enterprise zone motor vehicle usage tax exemption certification, and other publications issued by the Revenue Cabinet.

KENTUCKY ASSET/LIABILITY COMMISSION

June 18, 1997

Kentucky Asset/Liability Commission

- (1) **200 KAR 23:010**, Guidelines for use of financial agreements.
- (2) The Kentucky Asset/Liability Commission intends to promulgate an administrative regulation governing the use of financial agreements as defined in Section 2 of House Bill 5 of the 1997 Extraordinary Session of the General Assembly.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 1997 at 9 a.m. at 702 Capitol Avenue, Suite 261, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 21, 1997, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mr. Gordon L. Mullis, Executive Director, Office of Financial Management and Economic Analysis, 702 Capitol Avenue, Suite 261, Frankfort, Kentucky 40601.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Office of Financial Management and Economic Analysis at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the guidelines for the use of financial agreements by the Kentucky Asset/Liability Commission is House Bill 5 of the 1997 Extraordinary Session of the General Assembly, Section 5(2) and (9).
 - (b) The administrative regulation that the Kentucky Asset/Liability Commission intends to promulgate will replace an emergency administrative regulation, 200 KAR 23:010E. It will establish goals and guidelines under which the Kentucky Asset/Liability Commission shall use financial agreements as defined by House Bill 5 of the 1997 Extraordinary Session of the General Assembly, Section 2(6). The goals of the commission in the use of financial agreements will include, but not be limited to, the following:
 1. To effectively manage the Commonwealth's net interest margin by more efficiently matching interest-sensitive assets with interest-sensitive liabilities;
 2. To hedge any of the Commonwealth's obligations from adverse changes in interest rates;
 3. To utilize financial agreements to lower interest expenses or the risk of fluctuating interest rates to the Commonwealth; and
 4. To better manage debt service reserve funds and advance refunding escrow accounts.
- The guidelines of the commission in the use of financial agreements will include, but not be limited to the following:
 1. The commission shall utilize financial agreements in a prudent and nonspeculative manner;
 2. The commission shall only enter into financial agreements with parties which are rated in one of the three highest rating categories by a nationally recognized rating agency;
 3. Financial agreements resulting in variable rate obligations for the Commonwealth shall be entered into only if the aggregate of all variable rate obligations under financial agreements does not exceed a net exposure of more than ten percent of state obligations outstanding which are supported by appropriations by the General Assembly at the time the agreement is executed. Financial agreements utilized related to the issuance of tax and revenue anticipation notes shall be excluded from this limitation;
 4. Financial agreements utilized for the purpose of refunding or aiding in the refunding of obligations of the Commonwealth shall be limited to a notional amount not to exceed the par amount and stated final maturity of the refunding obligations;

5. Financial agreements utilized as part of a debt service reserve fund investment strategy shall be limited to a notional amount not to exceed the maximum required debt service reserve fund amount required under the resolution, trust indenture, or agreement establishing the debt service reserve fund;

6. Financial agreements utilized for the purpose of maximizing investment income and alleviating mismatches between an advance refunding escrow and debt service payments due on an obligation shall be limited to a notional amount not to exceed the par amount of the securities held in the escrow plus interest; and

7. No more than ten percent of the Commonwealth's investment portfolio shall be subject to financial agreements utilized for the purpose of managing the net interest margin. Financial agreements based on the Commonwealth's interest-sensitive assets shall be coordinated with the State Investment Commission.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS Chapter 56 as provided in House Bill 5 of the 1997 Extraordinary Session of the General Assembly, Section 5(9) requires that the Kentucky Asset/Liability Commission promulgate regulations that limit the net exposure of the Commonwealth as a result of the Commission entering into financial agreements. This administrative regulation will establish the limits under which the commission may enter into financial agreements.

(d) The benefits expected from the proposed administrative regulation are the effective implementation of House Bill 5 of the 1997 Extraordinary Session of the General Assembly which will result in better management of the Commonwealth's interest-sensitive assets and interest-sensitive liabilities.

(e) The administrative regulation will be implemented by the Office of Financial Management and Economic Analysis as staff to the Kentucky Asset/Liability Commission. The guidelines established by the regulation will govern how the Office of Financial Management and Economic Analysis operates with respect to the use of financial agreements entered into by the Kentucky Asset/Liability Commission.

KENTUCKY BOARD OF DENTISTRY

June 14, 1997

General Government Cabinet

The Kentucky Board of Dentistry

(1) **201 KAR 8:390.** General anesthesia, deep sedation, and conscious sedation by dentists. This amended administrative regulation clarifies the standards upon which a dentist may use general anesthesia, deep sedation, and conscious sedation in the practice of dentistry.

(2) The Kentucky Board of Dentistry intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 3 p.m., in the Kentucky Board of Dentistry Office, 10101 Linn Station Road, Suite 540, Thornton Oil Plaza, Louisville, Kentucky 40223.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by a least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request in care of the executive director at the following address: Mr. Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223, Phone: (502) 423-0573, Fax: (502) 423-1239.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from Gary Munsie at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the definition of unprofessional conduct is KRS 313.220(1).

(b) The administrative regulation the Kentucky Board of Dentistry intends to promulgate will amend 201 KAR 8:390. It will provide clarification of the standards regarding the use of various types of anesthesia in the practice of dentistry.

(c) The necessity and function of the proposed administrative regulation is as follows: This amended regulation will provide clarification regarding the use of various types of anesthesia and required safety procedures by dentists in the practice of dentistry.

(d) The benefit expected from this administrative regulation is the greater understanding of the types of anesthesia allowed by dentists and the safety measures required to protect the public.

(e) The regulation will be implemented by the Executive Director and Executive Secretary of the Board of Dentistry who are the administrators charged with overseeing various inspection functions and investigatory functions of the board.

June 14, 1997

General Government Cabinet

The Kentucky Board of Dentistry

(1) **201 KAR 8:400.** Complaint procedure. This proposed administrative regulation establishes procedures to handle complaints to the Board of Dentistry on matters for which disciplinary action may be taken against a licensee by the Board of Dentistry.

(2) The Kentucky Board of Dentistry intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 3 p.m., in the Kentucky Board of Dentistry Office, 10101 Linn Station Road, Suite 540, Thornton Oil Plaza, Louisville, Kentucky 40223.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by a least 5 persons, or an administrative body, or an association having at least 5 members; and

ADMINISTRATIVE REGISTER - 284

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Mr. Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223, Phone: (502) 423-0573, Fax: (502) 423-1239.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from Gary Munsie at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to complaints procedures is KRS 313.220(4).

(b) The administrative regulation the Kentucky Board of Dentistry intends to promulgate will amend 201 KAR 8:400. It will provide updated procedures for the board to process complaints it receives.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will provide updated procedures for the board to process complaints it receives.

(d) The benefit expected from this administrative regulation is the clarification of and improved efficiency in the way the board handles complaints against licensed dentists and licensed dental hygienists and persons allegedly in violation of KRS Chapter 313.

(e) The regulation will be implemented by the Executive Director and Executive Secretary of the Board of Dentistry who are charged with overseeing the complaint handling process.

June 14, 1997

General Government Cabinet

The Kentucky Board of Dentistry

(1) **201 KAR 8:411**. Repeal of 201 KAR 8:410: Procedures for disciplinary hearings. This proposed administrative regulation will repeal 201 KAR 8:410.

(2) The Kentucky Board of Dentistry intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 3 p.m., in the Kentucky Board of Dentistry Office, 10101 Linn Station Road, Suite 540, Thornton Oil Plaza, Louisville, Kentucky 40223.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Mr. Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223, Phone: (502) 423-0573, Fax: (502) 423-1239.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from Gary Munsie at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to complaints procedures is KRS 313.220(4).

(b) The administrative regulation the Kentucky Board of Dentistry intends to promulgate will repeal 201 KAR 8:410. The board is now required to follow the hearing procedures as set forth in KRS Chapter 13B.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will repeal the board regulation as already preempted by KRS Chapter 13B.

(d) The benefit expected from this administrative regulation is the elimination of an unnecessary and preempted regulation.

(e) The regulation will be implemented by the Executive Director and Executive Secretary of the Board of Dentistry who are charged with overseeing the administrative hearing process.

BOARD OF NURSING

July 7, 1997

General Government Cabinet

Board of Nursing

(1) **201 KAR 20:370**. Applications for licensure and registration.

(2) The Board of Nursing intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 25, 1997 at 9 a.m. (EDT) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(4)(a) The public hearing will be held if:

1. It is requested in writing by at least five (5) persons, or an administrative body, or an association having at least five (5) members; and

ADMINISTRATIVE REGISTER - 285

2. A minimum of five (5) persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing and agreement to attend the public hearing are not received at least ten (10) days prior to August 25, 1997, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
- (b) On a request for public hearing, a person should state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.
 - (b) The administrative regulation that the Board of Nursing intends to promulgate. Amends an existing administrative regulation.
 - (c) The necessity and function of the proposed administrative regulation is as follows: To provide a time limit on requesting a hearing following a notice to deny licensure.
 - (d) The benefits expected from the administrative regulation are: To provide a certain time for requesting a hearing.
 - (e) The administrative regulation will be implemented as follows: Normal administrative procedures.

July 7, 1997

General Government Cabinet
Board of Nursing

- (1) **201 KAR 20:390.** Nursing Incentive Scholarship Fund.
- (2) The Board of Nursing intends to amend the administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 25, 1997 at 9 a.m. (EDT) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
- (4)(a) The public hearing will be held if:
 1. It is requested in writing by at least five (5) persons, or an administrative body, or an association having at least five (5) members; and
 2. A minimum of five (5) persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing and agreement to attend the public hearing are not received at least ten (10) days prior to August 25, 1997, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
- (b) On a request for public hearing, a person should state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.
 - (b) The administrative regulation that the Board of Nursing intends to promulgate. Amends an existing administrative regulation.
 - (c) The necessity and function of the proposed administrative regulation is as follows: To allow annual disbursements of scholarship funds.
 - (d) The benefits expected from the administrative regulation are: Students will receive their money directly and all at once, rather than each semester.
 - (e) The administrative regulation will be implemented as follows: Checks will be sent annually to the students.

KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY

July 14, 1997

Kentucky Board of Examiners of Psychology

- (1) **201 KAR 26:121.** Scope of practice.
- (2) The Kentucky Board of Examiners of Psychology intends to amend the administrative regulation listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Examiners of Psychology at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to scope of practice is KRS 319.032(1)(b).

(b) The administrative regulation that the board intends to promulgate will amend 201 KAR 26:121, Scope of practice. It will revise the scope of practice for each of the specialty areas of practice by merely updating and modernizing those specialty areas listing the most modern services and techniques in use today by psychologists.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This regulation is necessitated by KRS 319.032(1)(b) and sets forth in detail the scope of practice for each of the specialty areas within the practice of psychology.

(d) The benefits expected from administrative regulation are: The licensees and certificants will be made aware of the current scope of practice for each of their respective specialty areas.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

July 14, 1997

Kentucky Board of Examiners of Psychology

(1) **201 KAR 26:130**. Complaint procedure.

(2) The Kentucky Board of Examiners of Psychology intends to amend the administrative regulation listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Examiners of Psychology at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to complaint procedures is KRS 319.032(1)(i).

(b) The administrative regulation that the board intends to promulgate will amend 201 KAR 26:130, Complaint procedure. It will revise the complaint management process by creating a complaint screening committee and case manager for each complaint filed with the board.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 319.005 prohibits unlicensed persons from engaging in the practice of psychology, or using the title of psychologist. KRS 319.082 delineates the causes for which disciplinary action may be taken against a licensee or certificate holder. KRS 319.118 authorizes the board to institute and maintain actions to restrain or enjoin violations. KRS 319.990 sets forth the criminal penalty for violations and authorizes prosecution of violators. This regulation is established to protect and safeguard the health and safety of the citizens of Kentucky and to provide procedures for filing, evaluating, and disposing of complaints.

(d) The benefits expected from administrative regulation are: This will improve the complaint management process for the board and enhance due process for the credential holder.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

July 14, 1997

Kentucky Board of Examiners of Psychology

(1) **201 KAR 26:140**, Procedures for disciplinary hearings.

(2) The Kentucky Board of Examiners of Psychology intends to amend the administrative regulation listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

ADMINISTRATIVE REGISTER - 287

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Examiners of Psychology at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to procedures for disciplinary hearings is KRS 319.032(1)(f) and (h).

(b) The administrative regulation that the board intends to promulgate will amend 201 KAR 26:140, Procedures for disciplinary hearings. It will revise the procedures for disciplinary hearings by bringing the language of the regulation into conformity with KRS Chapter 13B. Much of the present language is no longer needed since the passage of KRS Chapter 13B.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 319.092 mandates a hearing upon the filing of a complaint alleging a violation of KRS Chapter 319. This regulation establishes procedures for the conduct of administrative hearings held pursuant to KRS 319.092.

(d) The benefits expected from administrative regulation are: This amendment will bring the board's regulations regarding disciplinary procedures into conformity with KRS Chapter 13B.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

July 14, 1997

Kentucky Board of Examiners of Psychology

(1) **201 KAR 26:145. Ethical violations.**

(2) The Kentucky Board of Examiners of Psychology intends to amend the administrative regulation listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Examiners of Psychology at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to ethical violations is KRS 319.032(1)(c).

(b) The administrative regulation that the board intends to promulgate will amend 201 KAR 26:145, Ethical violations. It will revise the language presently in the regulation to include the ethical provisions included in the code of ethics of the Association of State and Provincial Psychology Boards.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 319.032(1)(c) requires the board to promulgate administrative regulations setting the requirements for issuing, denying, suspending, restricting, and revoking licenses and certificates, and placing licensees and certificate holders on probation. This regulation establishes ethical violations which may result in the board taking any of the disciplinary actions listed in the statute.

(d) The benefits expected from administrative regulation are: This amendment will expand and modernize the ethical requirements for psychologists who practice in Kentucky. The credential holders will be more aware of the requirements they are under in terms of practice and the consumers of psychological services will be better protected.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

July 14, 1997

Kentucky Board of Examiners of Psychology

(1) **201 KAR 26:155. Application procedures and temporary license or certificate.**

(2) The Kentucky Board of Examiners of Psychology intends to amend the administrative regulation listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

ADMINISTRATIVE REGISTER - 288

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Examiners of Psychology at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to application procedures and temporary license or certificate is KRS 319.032(1)(a).

(b) The administrative regulation that the board intends to promulgate will amend 201 KAR 26:155, Application procedures and temporary license or certificate. It will revise the language presently in the regulation to allow for persons who are on the faculty of a university to be able to meet the requirements for postdoctoral experience.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This regulation sets forth procedures for applying for a license or a certificate and specifies conditions of temporary licensure and certification.

(d) The benefits expected from administrative regulation are: This amendment will allow persons on the faculty of the state universities in the department of psychology to be able to qualify for licensure by setting forth the requirements for the post-doctoral experience.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

July 14, 1997

Kentucky Board of Examiners of Psychology

(1) **201 KAR 26:160**, Fee schedule.

(2) The Kentucky Board of Examiners of Psychology intends to amend the administrative regulation listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Examiners of Psychology at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to fee schedule is KRS 319.032(1)(k).

(b) The administrative regulation that the board intends to promulgate will amend 201 KAR 26:160, Fee schedule. It will revise the examination fee to reflect increases which are being placed on these examinations by the testing vendor. It will also revise other fees as necessary.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This regulation is necessitated by KRS 319.050, 319.058, 319.062, and 319.064 and sets forth in detail all fees charged by the board.

(d) The benefits expected from administrative regulation are: This amendment will allow the board to offer the examination to applicants at a reasonable fee while not requiring the board to administer the examination at a loss.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

July 14, 1997

Kentucky Board of Examiners of Psychology

(1) **201 KAR 26:171**, Requirements for supervision.

(2) The Kentucky Board of Examiners of Psychology intends to amend the administrative regulation listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Examiners of Psychology at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to requirements for supervision is KRS 319.032(1)(j).

(b) The administrative regulation that the board intends to promulgate will amend 201 KAR 26:171, Requirements for supervision. It will revise the requirements for supervision by making changes to the nature, frequency, and circumstances necessitating supervision.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 319.032(1)(j) requires administrative regulations governing the supervision of certified psychologists, psychological associates, candidates for licensure and certification, and license or certificate holders sanctioned by the board. This administrative regulation defines the requirements for the supervision.

(d) The benefits expected from administrative regulation are: This amendment will allow the board to offer additional flexibility in the fulfillment of the supervision requirements.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

July 14, 1997

Kentucky Board of Examiners of Psychology

(1) **201 KAR 26:215**, Nonresident status.

(2) The Kentucky Board of Examiners of Psychology intends to amend the administrative regulation listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Examiners of Psychology at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to nonresident status is KRS 319.032(2).

(b) The administrative regulation that the board intends to promulgate will amend 201 KAR 26:215, Nonresident status. It will revise the requirements for nonresident practice by psychologists licensed in another jurisdiction.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 319.017(7) allows a nonresident psychologist temporarily employed in the state to render psychological services for no more than thirty (30) days every two years. This regulation establishes the requirements for this practice.

(d) The benefits expected from administrative regulation are: This amendment will allow the board to monitor the practice of nonresident psychologists in Kentucky such that the public will be afforded greater protection.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

July 14, 1997

Kentucky Board of Examiners of Psychology

(1) **201 KAR 26:230**, Examinations.

(2) The Kentucky Board of Examiners of Psychology intends to amend the administrative regulation listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

ADMINISTRATIVE REGISTER - 290

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Examiners of Psychology at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to examinations is KRS 319.032(1)(a).

(b) The administrative regulation that the board intends to promulgate will amend 201 KAR 26:230, Examinations. It will revise the way in which the structured oral examination is administered.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 319.032 requires regulations governing the examination of applicants for licensure and certification. This regulation outlines requirements concerning examinations.

(d) The benefits expected from administrative regulation are: This amendment will allow the board to administer an improved version of the structured oral examination. This will provide the public with greater protection.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

July 14, 1997

Kentucky Board of Examiners of Psychology

(1) **201 KAR 26:250**, Employment of psychological associates.

(2) The Kentucky Board of Examiners of Psychology intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Examiners of Psychology at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to employment of psychological associates is KRS 319.032(1)(j).

(b) The administrative regulation that the board intends to promulgate will not amend an existing regulation. It will establish the requirements which must be met in order for a psychological associate to be appropriately employed such that their employment is in compliance with the provisions of KRS 319.064(4).

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 319.032 requires administrative regulations governing the supervision of certified psychologists, psychological associates, and candidates for licensure, and the employment of psychological associates when practicing independently. This administrative regulation defines the requirements for employment of psychological associates. The purpose of this regulation is to provide a sufficiently clear definition of employment to allow the board to regulate effectively this aspect of psychological practice. KRS 319.064 prohibits psychological associates from practicing independently, except under the employment and supervision of the board approved licensed psychologist. Since psychological associates are hired under a variety of employment situations, it is important for the board to specify which of these are allowed under the statute. In all cases, supervisory control of the practice as defined in 201 KAR 26:171 shall be maintained. In all communications with the public, it shall be clear that the psychological associate is not practicing independently, except under appropriate employment conditions and supervision.

(d) The benefits expected from administrative regulation are: This regulation will clarify the requirements which must be met in order for a psychological associate to be employed. This clarification will provide additional protection to the public.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources

June 13, 1997

Tourism Development Cabinet

Department of Fish and Wildlife Resources

(1) Regulation Number and Title: **301 KAR 1:085**, Mussel shell harvesting.

(2) The Department of Fish and Wildlife Resources intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 1997, at 9 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, five miles west of Frankfort on U.S. 60.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and

ADMINISTRATIVE REGISTER - 291

2. A minimum of five persons, or the administrative body or association agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least ten days prior to August 21, 1997, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to John Wilson, Assistant Director, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601.
- (b) In a request for a public hearing, a person shall state:
 1. "I agree to attend the public hearing"; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the department at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1) and 150.520.
- (b) The administrative regulation that the department intends to promulgate will amend 301 KAR 1:085 as follows: It will increase the legal minimum size of mapleleaf mussels from two and one-half (2-1/2) inches to two and three-fourths (2-3/4) inches, and washboard mussels from three and three-fourths (3-3/4) inches to four (4) inches.
- (c) The necessity and function of the proposed administrative regulation is to protect these species from over exploitation and to bring Kentucky's size limits into conformity with those of surrounding states.
- (d) The benefits expected from the administrative regulation are better management of mussel populations and closing a legal loophole which allows undersized mussels taken in one state to be transported and sold in another state with a smaller size limit.
- (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the department's Division of Law Enforcement.

June 13, 1997

Tourism Development Cabinet

Department of Fish and Wildlife Resources

- (1) Regulation Number and Title: **301 KAR 2:140**, Seasons for wild turkey.
- (2) The Department of Fish and Wildlife Resources intends to amend the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 1997, at 9 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, five miles west of Frankfort on U.S. 60.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and
 2. A minimum of five persons, or the administrative body or association agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least ten days prior to August 21, 1997 the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to John Wilson, Assistant Director, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601.
- (b) In a request for a public hearing, a person shall state:
 1. "I agree to attend the public hearing"; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the department at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1) and 150.390(1).
- (b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:140 as follows: It will require a separate permit for fall gun hunting for turkey. It will also remove references to season dates, shooting hours and wildlife management area restrictions, matters to be included in new administrative regulations governing fall and spring turkey hunting.
- (c) The necessity and function of the proposed administrative regulation is to establish permit requirements, tagging and checking requirements, and firearm and archery equipment restrictions for wild turkey hunting.
- (d) The benefits expected from the administrative regulation are better management of Kentucky's wild turkey population and providing outdoor recreation associated with turkey hunting.
- (e) This administrative regulation will be implemented by publication of its provisions in hunting brochures, posters and in media outlets, and enforcement by the department's Division of Law Enforcement.

June 13, 1997

Tourism Development Cabinet

Department of Fish and Wildlife Resources

- (1) Regulation Number and Title: **301 KAR 2:142**, Spring wild turkey hunting; **301 KAR 2:144**, Fall wild turkey hunting.
- (2) The Department of Fish and Wildlife Resources intends to promulgate administrative regulations governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 1997, at 9 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, five miles west of Frankfort on U.S. 60.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and
 2. A minimum of five persons, or the administrative body or association agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing is not received from the required number of people at least ten days prior to August 21, 1997, the public

ADMINISTRATIVE REGISTER - 292

hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to John Wilson, Assistant Director, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601.

(b) On the request for a public hearing, a person shall state:

1. "I agree to attend the public hearing"; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request from the department at the address listed above.

(7) Information relating to the proposed administrative regulations.

(a) The statutory authority for the promulgation administrative regulations governing turkey hunting is KRS 150.025(1) and 150.390(1).

(b) The administrative regulations that the department intends to promulgate will not amend existing administrative regulations. They will establish a fall gun turkey season of five days beginning on the Wednesday closest to December 1 in selected counties. These administrative regulations will also incorporate spring gun and fall archery turkey hunting requirements currently included in 301 KAR 2:140.

(c) The necessity and function of the proposed administrative regulations is to establish a fall gun hunting season for wild turkey and to reformat existing administrative regulations to better accommodate this fall gun season.

(d) The benefits expected from the administrative regulation are to provide additional wild turkey hunting opportunity within the confines of sound wildlife management.

(e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the department's Division of Law Enforcement.

June 13, 1997

Tourism Development Cabinet

Department of Fish and Wildlife Resources

(1) Regulation Number and Title: **301 KAR 3:022**, License, tag and permit fees.

(2) The Department of Fish and Wildlife Resources intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 1997 at 9 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, five miles west of Frankfort on U.S. 60.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and
2. A minimum of five persons, or the administrative body or association agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least ten days prior to August 21, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to John Wilson, Assistant Director, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601.

(b) In a request for a public hearing, a person shall state:

1. "I agree to attend the public hearing"; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request from the department at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 150.195(4)(f) and 150.225.

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 3:022 as follows: It will establish a \$10 fee for a fall turkey gun hunting permit.

(c) The necessity and function of the proposed administrative regulation is to establish a fee for a fall turkey gun hunting permit.

(d) The benefits expected from the administrative regulation are additional income to fund wildlife restoration and management.

(e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the department's Division of Law Enforcement.

KENTUCKY DEPARTMENT OF AGRICULTURE

July 15, 1997

Kentucky Department of Agriculture

(1) Regulation number and title: **302 KAR 20:240**, Mycobacterium paratuberculosis (Johne's).

(2) The Kentucky Department of Agriculture intends to promulgate an administrative regulation governing the above subject matter.

(3) A public hearing to receive oral and written comments has been scheduled for Thursday, August 21, 1997, at 1 p.m. at the Department of Agriculture's Conference Room, Capital Plaza Tower, 7th Floor, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and
2. A minimum of five persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing is not received from the required number of people at least ten days prior to August 21, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mark Farrow, General Counsel, Kentucky Department of Agriculture, 7th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

(b) On a request for a public hearing, a person shall state:

ADMINISTRATIVE REGISTER - 293

1. "I agree to attend the public hearing"; or
2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that a person who desires to be informed of the intent of an administrative body to promulgate an administrative regulation governing a subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Department of Agriculture at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The authority for the promulgation of an administrative regulation relating to Mycobacterium paratuberculosis (Johnne's) is KRS 257.030, 257.110 and 257.480.
- (b) The administrative regulation that the Kentucky Department of Agriculture intends to promulgate is a new administrative regulation. It sets forth the requirements for the control and eradication of Mycobacterium paratuberculosis (Johnne's) from a known affected herd.
- (c) The necessity and function of the proposed administrative regulation is as follows: Same as (b).
- (d) The benefits expected from the proposed administrative regulation are: To identify herds throughout the Commonwealth that are affected with Mycobacterium paratuberculosis (Johnne's). The administrative regulation will allow herd owners to participate in a voluntary program for the purpose of eradicating the organism from a herd. A Mycobacterium paratuberculosis (Johnne's) classified free herd will have added value and the demand for animals whose origin is a free herd will be greater. The Commonwealth livestock industry will be enhanced by having methods available to eliminate the disease from the livestock population.
- (e) The administrative regulation will be implemented as follows: A herd owner shall submit to the Kentucky Department of Agriculture an application requesting that his Mycobacterium paratuberculosis (Johnne's) affected herd be enrolled in a voluntary control and eradication program. This will be accomplished by a management agreement plan signed by the herd owner, herd veterinarian and the Kentucky Department of Agriculture/State Veterinarian. The management agreement plan shall reference herd management, individual animal identification, individual animal test and the removal of classified Mycobacterium paratuberculosis (Johnne's) infected animals from the herd.

JUSTICE CABINET Department of Corrections

July 11, 1997

Justice Cabinet

Department of Corrections

- (1) Regulation Number and Title: **501 KAR 6:020**, Department of Corrections.
- (2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 1997, at 9 a.m., in the Auditorium, in the State Office Building, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 21, 1997, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Justice Cabinet, Department of Corrections, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Department of Corrections at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of this administrative regulation relating to the subject matter of this administrative regulation is KRS 196.035 and 197.020.
 - (b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 6:020, as follows:
 1. Inmate grievance procedure (CPP 14.6) shall be amended to reflect that: (1) grievances resulting from staff conflicts shall be heard by the grievance committee; (2) the grievance committee shall act as a fact finding body only; (3) the grievance committee shall not recommend specific disciplinary action; (4) consolidated inmate grievances shall be presented at the grievance committee hearing; (5) the grievance coordinator is responsible for scheduling hearings and conducting the elections for inmate members; and (6) the grievance aide is responsible for informing a grievant of the hearing and that failure to attend shall result in dismissal of the grievance.
 2. Advanced supervision (27-10-01) shall be deleted due to the fact that this type of supervision has been abolished in order to permit probation and parole officers to handle a larger number of offenders at all other levels of supervision.
 3. Intensive supervision (27-11-01) shall be amended to delete the section involving the criteria and procedures for early release to intensive supervision as this is no longer a viable option. Offenders may be paroled at their regular eligibility date to intensive supervision in the three (3) large metropolitan areas.
 - (c) The necessity and function of the proposed administrative regulation is as follows:
 1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.
 2. This administrative regulation updates operating procedures at the Department of Corrections to comply with KRS Chapter 13A and to reflect current operating procedures.

ADMINISTRATIVE REGISTER - 294

(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify current operating procedures.

(e) This administrative regulation will be implemented as follows: Staff will comply with operational procedures and standards noted in policy changes.

July 11, 1997

Justice Cabinet

Department of Corrections

(1) Regulation Number and Title: **501 KAR 6:090**, Frankfort Career Development Center.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 1997, at 9 a.m., in the Auditorium, in the State Office Building, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 21, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Justice Cabinet, Department of Corrections, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of Corrections at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation relating to the subject matter of this administrative regulation is KRS 196.035 and 197.020.

(b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 6:090, as follows:

1. Purchasing and receiving (FCDC 02-13-01) shall be amended to ensure compliance with standards.
2. Food service: general guidelines (FCDC 11-03-01) shall be amended to ensure that the Food Service Program be conducted in a manner which complies with the existing food service standards of the Department of Corrections.
3. Laundry, clothing hygiene and grooming services (FCDC 12-03-01) shall be amended to ensure that basic inmate needs are being met.
4. Safety and sanitation practices and inspections (FCDC 12-04-01) shall be amended to ensure that the health and safety of inmates and staff are met.
5. Use of pharmaceutical products (FCDC 13-01-01) shall be amended to ensure that the delivery of medical care for inmates and the security of medicine is correct.
6. Parenteral administration of medications and use of psychotropic drugs (FCDC 13-03-02) shall be amended to provide for the proper management of pharmaceuticals.
7. Inmate death (FCDC 13-17-01) shall be deleted as it is covered in policy FCDC 13-05-01, family notice of serious illness, injury, major surgery, or death.
8. Due process and disciplinary procedure (FCDC 15-03-01) shall be amended to establish the due process mechanism to ensure legal and proper due process rights.
9. Detention orders and protective custody requests (FCDC 15-04-01) shall be amended to ensure that minimum security inmates in need of detention or protective custody be moved to a more secure institution which better suits their needs.
10. Visiting (FCDC 16-01-01) shall be amended to refer the reader to the Corrections policies and procedures and to explain the visiting procedures.
11. Assessment and orientation (FCDC 17-02-01) shall be amended to ensure complete assessment and orientation to transferring inmates.
12. Inmate classification and review (FCDC 18-01-01) shall be amended to provide a classification system for all inmates ensuring the safety of the public and inmates.
13. Social Services Program (FCDC 24-01-01) shall be amended to provide a social services program with a range of resources appropriate to the needs of the inmates.
14. Procedure for inmate release (FCDC 25-05-01) shall be amended to ensure the timely release of inmates from the institution.

(c) The necessity and function of the proposed administrative regulation is as follows:

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

2. This administrative regulation updates operating procedures at the Frankfort Career Development Center to comply with KRS Chapter 13A and to reflect current operating procedures.

(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify current operating procedures.

(e) This administrative regulation will be implemented as follows: Staff will comply with operational procedures and standards noted in policy changes.

ADMINISTRATIVE REGISTER - 295

TRANSPORTATION CABINET

Date: July 15, 1997

Transportation Cabinet

- (1) **601 KAR 1:025**, Transportation of hazardous materials by air or highway.
- (2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation governing the transportation of hazardous materials within Kentucky. The administrative regulation will adopt the latest changes to the federal hazardous materials regulations that have been published in the "Federal Register".
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 29, 1997 at 9 a.m. local prevailing time, at 501 High Street, 4th Floor Hearing/Conference Room of the State Office Building, Frankfort, Kentucky 40622.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 29, 1997, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sandra Pullen Davis, 501 High Street, Mail Code 10-13, State Office Building, Frankfort, Kentucky 40622.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Transportation Cabinet at the address listed above.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of this administrative regulation is KRS 174.410(2), 174.430(1), 49 CFR Parts 130, 171-180.
 - (b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend an existing administrative regulation.
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 174.410(2) provides that the Secretary of the Transportation Cabinet in consultation with the Secretary of the Natural Resources and Environmental Protection Cabinet and the Secretary of Cabinet for Health Services (formerly Cabinet for Human Resources), shall adopt by reference or in its entirety, the federal hazardous materials transportation regulation, 49 CFR (1978), as amended, to effectively carry out the intent of KRS 174.400 through 174.435 relating to the transportation of hazardous material by air or highway. Further, the U.S. Department of Transportation requires that each state enforce the federal requirements. This administrative regulation adopts the federal regulations relating to the transportation of hazardous materials.
- (d) The benefit expected from this administrative regulation is consistency with the federal requirements for the transportation of hazardous materials.
- (e) The Transportation Cabinet will implement this change to the administrative regulation by training the motor vehicle enforcement officers in the changes to the hazardous material transportation regulations so that they will know what to look for.
- (8) If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by August 19, 1997. This request does not have to be in writing. This notice can be provided in an alternate format upon request.

EDUCATION PROFESSIONAL STANDARDS BOARD

June 1997

Education Professional Standards Board

- (1) **704 KAR 20:084**, Interdisciplinary early childhood education, birth to primary.
- (2) The Education Professional Standards Board intends to amend the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 10 a.m. in the First Floor Conference Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.
- (c) If a request for a public hearing is not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Betty Lindsey, Executive Secretary, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, fax (502) 573-1610.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing"; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Education Professional Standards Board at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the requirements for the issuance of is KRS 161.030.
 - (b) The administrative regulation that the Education Professional Standards Board will promulgate is 704 KAR 20:084.

ADMINISTRATIVE REGISTER - 296

(c) The necessity and function of the proposed administrative regulation is as follows: The amendment to this administrative regulation establishes further exemptions for teachers in approved programs in 1995-96 and 1996-97 to obtain an approval to teach in approved birth to primary classrooms.

(d) The benefits expected from the administrative regulation are: The proposed amendment provides additional personnel needed in birth to primary classrooms.

(e) The administrative regulation will be implemented as follows: The regulation will be communicated by the Education Professional Standards Board to all local school districts.

June 1997

Education Professional Standards Board

(1) **704 KAR 20:210**, Substitute teachers.

(2) The Education Professional Standards Board intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 1997, at 10 a.m. in the First Floor Conference Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to August 22, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Betty Lindsey, Executive Secretary, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, fax (502) 573-1610.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing"; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Education Professional Standards Board at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the amending of an administrative regulation relating to the requirements for the issuance of 704 KAR 20:210 is KRS 161.020, 161.028 and 161.030.

(b) The administrative regulation that the Education Professional Standards Board will promulgate is 704 KAR 20:210.

(c) The necessity and function of the proposed amendment to the administrative regulation is as follows: KRS 161.020 and 161.030 require that substitute teachers hold certificates approved by the Education Professional Standards Board. There is a need to establish additional ways to provide substitute personnel for local school districts.

(d) The benefits expected from the administrative regulation are: To ensure the preparation of individuals to be used on the emergency basis.

(e) The administrative regulation will be implemented as follows: The regulation will be communicated to all local school districts by the Office of Teacher Education and Certification. The regulation will be communicated by the Education Professional Standards Board to colleges, universities and local school districts.

WORKFORCE DEVELOPMENT CABINET State Board for Adult and Technical Education

July 2, 1997

Cabinet for Workforce Development

State Board for Adult and Technical Education

(1) Regulation Number and Title: **780 KAR 2:130**, Minimum standards of admissions for postsecondary students in vocational technical programs.

(2) The Cabinet for Workforce Development, State Board for Adult and Technical Education intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 26, 1997 at 9 a.m., in the State Board Room, 2nd Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 26, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Delmus Murrell, Secretary, State Board for Adult and Technical Education, 20th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601. Phone (502) 564-4286, FAX (502) 564-4800.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

ADMINISTRATIVE REGISTER - 297

(b) Persons who wish to file this request may obtain a request form from Delmus Murrell, Secretary, State Board for Adult and Technical Education at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to 780 KAR 2:130 is KRS 151B.110 and 151B.150.

(b) The administrative regulation that the State Board for Adult and Technical Education intends to promulgate will amend 780 KAR 2:130, Minimum standards of admissions for postsecondary students in vocational technical programs. It will establish minimum postsecondary admissions requirements for Kentucky TECH schools.

(c) The necessity and function of the proposed administrative regulation is as follows:

(d) The benefits expected from administrative regulation are more flexible and accessible admissions to Kentucky TECH schools.

(e) The administrative regulation will be implemented as follows: Publication in policies and procedures for Kentucky TECH schools and dissemination to Kentucky TECH schools.

Department for Employment Services

June 25, 1997

Workforce Development Cabinet

Department for Employment Services

(1) **787 KAR 1:200**, Maximum weekly benefit rate.

(2) The Workforce Development Cabinet, Department for Employment Services, Division of Unemployment Insurance, intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 29, 1997, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 29, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Beverly Haverstock, General Counsel, Office of General Counsel, Workforce Development Cabinet, 2nd Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-6606.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Employment Services, 275 East Main Street, 2nd Floor East, Frankfort, Kentucky 40621.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the maximum weekly benefit rate is state statute and by federal regulation.

(b) The administrative regulation that the Department for Employment Services intends to promulgate will amend 787 KAR 1:200, Maximum weekly benefit rate. It will set the unemployment insurance maximum weekly unemployment insurance benefit rate that is in effect for the year July 1, 1997, through June 30, 1998.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 341.380 requires the Secretary for Workforce Development to determine the average weekly wage for insured employment. Fifty-five (55) percent of this amount adjusted to the nearest multiple of one (1) dollar constitutes the maximum weekly unemployment insurance benefit rate for those workers whose benefit year commences on or after July 1, 1997, and prior to July 1, 1998. This administrative regulation applies the mathematical computation required by statute and contains the determination of the maximum weekly benefit rate.

(d) The benefit expected from this administrative regulation is: This proposed administrative regulation sets forth the maximum weekly unemployment insurance benefit rate at \$256 for the year July 1, 1997, through June 30, 1998. This is a \$10 increase from last year's rate.

LABOR CABINET

Department of Workers' Claims

July 14, 1997

Department of Workers' Claims

(1) Reg. No. and Name: **803 KAR 25:130**, Notice of rejection of Workers' Compensation Act.

(2) The Department of Workers' Claims intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 1997, at 10 a.m. at the Department of Workers' Claims, 1270 Louisville Road, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five (5) persons, or an administrative body, or an association having at least (5) members; and

2. A minimum of five (5) persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least ten (10) days prior to August 21, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kentucky Department of

ADMINISTRATIVE REGISTER - 298

Workers' Claims, ATTN: Carla H. Montgomery, 1270 Louisville Road, Frankfort, Kentucky 40601, (502) 564-5550, fax number (502) 564-5934.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request from the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 342.260(1) and 342.395.

(b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. It will create a new administrative regulation to set forth procedures in the filing of the notice of rejection of workers' compensation insurance.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 342.260 requires the commissioner to promulgate administrative regulations necessary to carry out the work of the department. KRS 342.395 requires employers to file a written notice of rejection with the Department of Workers' Claims. This administrative regulation will set forth procedures concerning the filing of these rejection notices; the form of the rejection notice; and the withdrawal of the rejection notice.

(d) The benefits expected from the administrative regulation are: Employers and employees will be better informed as to the advantages and disadvantages of rejection workers' compensation. The Notice of Rejection form will clearly set forth the appropriate information. Filings will be done properly.

(e) The administrative regulation will be implemented as follows: Employees and employers will be required to properly administer rejections of workers' compensation on specified forms prepared by the Department of Workers' Claims. Those forms will be filed with Department of Workers' Claims.

July 7, 1997

Department of Workers' Claims

(1) Reg. No. and Name: **803 KAR 25:175**, Filing of insurance coverage and policy change or termination.

(2) The Department of Workers' Claims intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 1997, at 10 a.m. at the Department of Workers' Claims, 1270 Louisville Road, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five (5) persons, or an administrative body, or an association having at least (5) members; and
2. A minimum of five (5) persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least ten (10) days prior to August 21, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kentucky Department of Workers' Claims, ATTN: Carla H. Montgomery, 1270 Louisville Road, Frankfort, Kentucky 40601, (502) 564-5550, fax number (502) 564-5934.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request from the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 342.260(1) and 342.340.

(b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. It will create a new administrative regulation to provide for filing by insurance carriers of proof of insurance coverage and notice of a policy change or termination.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 342.260 requires the commissioner to promulgate administrative regulations necessary to carry out the work of the department. KRS 342.340 requires insurance carriers to file proof of insurance coverage for employers and notice of a policy change or termination. This administrative regulation requires insurance carriers to file these forms with the National Council on Compensation Insurance ("NCCI"). NCCI will then provide this information electronically to the Department of Workers' Claims.

(d) The benefits expected from the administrative regulation are: Insurance carriers shall file these forms with NCCI. Then NCCI can provide this information electronically to the department as well as provide the department with customized reports. This will assist in providing information in a more efficient and expeditious matter.

(e) The administrative regulation will be implemented as follows: Insurance carriers will be required to file this information with NCCI. The department will obtain this information from NCCI electronically to verify that employers have workers' compensation coverage.

PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction

July 9, 1997

Public Protection and Regulation Cabinet

Department of Housing, Buildings and Construction

(1) Regulation Number and Title: **815 KAR 7:105**; Kentucky Building Code/1997.

ADMINISTRATIVE REGISTER - 299

(2) The Board of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Thursday, August 21, 1997, at 10 a.m., local time, in the department's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five (5) persons or an administrative body or an association having at least five (5) members; and
2. A minimum of five (5) persons or the administrative body or association agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least ten (10) days prior to August 21, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U. S. Highway 127 South, Suite #1, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a persons shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the department's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 198B.040(7) and 198B.050.

(b) The department intends to amend 815 KAR 7:105, Kentucky Building Code/1997 as follows:

1. Amend the fee schedule in Section 112 by increasing the current fees.
2. Amend Exception 3 in Section 307.8 to correct a printing or editorial error.
3. Amend Section 421, Swimming Pools.
4. Amend code references in Section 423.1, #3.
5. Delete Section 3102.0, Signs.

(c) The necessity and function of the proposed administrative regulation is as follows: It is necessary to promulgate the intended administrative regulation in order to put into place an updated edition of the Kentucky Building Code. The intended amendments are necessary to correct some printing and editing errors and amend the current fee schedule.

(d) The benefits expected from this administrative regulation are: State and local building code officials and other users of the KBC will have a clear understanding of the minimum requirements and inconsistencies will be eliminated.

(e) This administrative regulation will be implemented by the Department of Housing, Buildings and Construction.

July 15, 1997

Public Protection and Regulation Cabinet

Department of Housing, Buildings and Construction

(1) Regulation Number and Title: **815 KAR 8:010**; Master heating, ventilation, and air conditioning (HVAC) contractor licensing requirements.

(2) The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Thursday, August 21, 1997, at 10 a.m., local time, in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five (5) persons or an administrative body or an association having at least five (5) members; and
2. A minimum of five (5) persons or the administrative body or association agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least ten (10) days prior to August 21, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the department's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 198B.654.

(b) The department intends to amend this administrative regulation by deleting the requirement to wait 60 days before retaking the examination set forth in Section 4(7).

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 198B.658 requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations to coordinate and administer the HVAC Act requiring persons engaged in the business of heating, ventilation and air conditioning (HVAC) contracting to be licensed. This administrative regulation sets forth the required proof of experience, examination, fees, application form and other administrative requirements for licensing HVAC contractors. The board found that the 60 day period between examinations to be restrictive.

(d) The benefits expected from this administrative regulation are: that the public will be better protected by the licensing of qualified HVAC contractors.

(e) This administrative regulation will be implemented by the Department of Housing, Buildings and Construction.

ADMINISTRATIVE REGISTER - 300

July 15, 1997

Public Protection and Regulation Cabinet

Department of Housing, Buildings and Construction

(1) Regulation Number and Title: **815 KAR 8:020**; Journeyman heating, ventilation, and air conditioning (HVAC) mechanic licensing requirements.

(2) The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Thursday, August 21, 1997, at 10 a.m., local time, in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five (5) persons or an administrative body or an association having at least five (5) members; and
2. A minimum of five (5) persons or the administrative body or association agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least ten (10) days prior to August 21, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the department's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 198B.654.

(b) The Department intends to amend Section 4(7) of this administrative regulation by deleting the requirement to wait 60 days before retaking the examination.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 198B.654 requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations requiring persons engaged in the business of heating, ventilation and air conditioning (HVAC) installation and repair to be licensed. This amendment is necessary to make the administrative regulation comply with HB 189 of the 1996 General Assembly. The board found that the 60 day period between examinations to be restrictive.

(d) The benefits expected from this administrative regulation are: This administrative regulation will establish a cohesive program for qualifying journeyman and providing for appropriate supervision by master contractors and for apprentices. The public will be protected by having a state agency to assist in oversight of code complying installations.

(e) This administrative regulation will be implemented by the Department of Housing, Buildings and Construction.

July 11, 1997

Public Protection and Regulation Cabinet

Department of Housing, Buildings and Construction

(1) Regulation Number and Title: **815 KAR 20:020**, Parts or materials list.

(2) The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for 10 a.m., local time, on Thursday, August 21, 1997, in the department's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five (5) persons or an administrative body or an association having at least five (5) members; and
2. A minimum of five (5) persons or the administrative body or association agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least ten (10) days prior to August 21, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U. S. Highway 127 South, Suite #1, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a persons shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the department's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 318.130.

(b) The department intends to amend Section 5 of this administrative regulation by including a new product approved by the State Plumbing Code Committee, i.e., Hot Aqua Instantaneous Tankless Electric Water Heaters.

(c) The necessity and function of the proposed administrative regulation is as follows: The function of this administrative regulation is to allow the department to promptly permit the use of new parts or materials.

(d) The benefits expected from this administrative regulation are: To allow the use of newly approved products.

(e) This administrative regulation will be implemented by state plumbing inspectors.

ADMINISTRATIVE REGISTER - 301

July 11, 1997

Public Protection and Regulation Cabinet
Department of Housing, Buildings and Construction

(1) Regulation Number and Title: **815 KAR 20:030**, License application; qualifications for examination, examination requirements, expiration, renewal, revival or reinstatement of licenses.

(2) The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for 10 a.m., local time, on Thursday, August 21, 1997 in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five (5) persons, or an administrative body, or an association having at least five (5) members; and
2. A minimum of five (5) persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least ten (10) days prior to August 21, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the department's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 318.130.

(b) The department intends to amend 815 KAR 20:030, License application; qualifications for examination, examination requirements, expiration, renewal, revival or reinstatement of licenses, by creating a new section to require certain master plumbers engaging in the business of plumbing which requires permits to obtain and maintain a general liability insurance policy of \$300,000.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation relates to the department's conduct of examinations for master and journeyman plumber applicants. This amendment will add the requirement of obtaining and maintaining general liability insurance for master plumbers in order to obtain plumbing permits.

(d) The benefits expected from administrative regulation are: To provide a level of protection to property owners from possible damages caused by plumbing contractors.

(e) This administrative regulation will be implemented by the Division of Plumbing.

July 11, 1997

Public Protection and Regulation Cabinet
Department of Housing, Buildings and Construction

(1) Regulation Number and Title: **815 KAR 20:130**, House sewers and storm water piping; methods of installation.

(2) The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for 10 a.m., local time, on Thursday, August 21, 1997, in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five (5) persons, or an administrative body, or an association having at least five (5) members; and
2. A minimum of five (5) persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least ten (10) days prior to August 21, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the department's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 318.130.

(b) The department intends to amend 815 KAR 20:130, House sewers and storm water piping; methods of installation by amending Section 5 to reduce the cover of sewer piping installed under property subject to vehicular traffic from 36" to 24". This amendment has been approved by the Plumbing Code Committee and the Board of Housing, Buildings and Construction.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation identifies the materials

ADMINISTRATIVE REGISTER - 302

that may be used in the construction of house sewers, storm water piping as well as the methods of installation. This amendment will recognize the standard the manufacturer recommends.

- (d) The benefits expected from administrative regulation are: Savings to owners while complying with manufacturer's recommendations.
- (e) This administrative regulation will be implemented by the Division of Plumbing through each county area inspector.

CABINET FOR HEALTH SERVICES Department for Public Health Division of State and Local Health Administration

July 15, 1997

Cabinet for Health Services

Department for Public Health

Division of State and Local Health Administration

(1) Regulation Number and Title:

902 KAR 8:040, Definition of terms applicable for the personnel program for local health departments;

902 KAR 8:060, Classification and compensation plans for local health departments;

902 KAR 8:070, Recruitment, examination, and certification of eligibles for local health departments of Kentucky;

902 KAR 8:080, Initial appointment, probationary period, layoffs, performance evaluation, and the resignation of employees of local health departments;

902 KAR 8:090, Promotion, transfer, and demotion of local health department employees;

902 KAR 8:100, Disciplinary procedures applicable for local health department employees;

902 KAR 8:110, Disciplinary appeal process applicable for local health department employees;

902 KAR 8:120, Leave provisions applicable to employees of local health departments;

902 KAR 8:130, Participation of local health department employees in political activities;

902 KAR 8:140, Appointment of a health officer or a health department director of a local health department.

(2) The Cabinet for Health Services, Department for Public Health, Division of State and Local Health Administration, intends to promulgate amendments to ten (10) administrative regulations governing the subject matters cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulations has been scheduled for August 29, 1997, at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least five members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 29, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mae B. Lewis, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street, 4-West, (502) 564-7900.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Public Health, Commissioner's Office, 275 East Main Street, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulations.

(a) The statutory authority for the promulgation of these administrative regulations relating to 902 KAR 8:040, 902 KAR 8:060, 902 KAR 8:070, 902 KAR 8:080, 902 KAR 8:090, 902 KAR 8:100, 902 KAR 8:110, 902 KAR 8:120, 902 KAR 8:130, 902 KAR 8:140 is KRS 211.170, 211.1751, 211.1752, and 211.1755.

(b) The administrative regulations that the Cabinet for Health Services, Department for Public Health, intends to promulgate, concern the personnel policies applicable to county and district health departments established by KRS Chapter 212. The administrative regulations cover various aspects of personnel management including: the recruitment and hiring process; reclassifications, promotions and other changes in job functions; earning and utilizing annual, sick, and compensatory time; disciplinary procedures and the right of appeal, the contemplated changes evolved through discussions with a personnel workgroup and directors of local health departments.

(c) The necessity, function and conformity of the proposed administrative regulations are as follows: The Cabinet for Health Services is required to supervise the personnel functions of local health departments. The administrative regulations conform to this responsibility by establishing consistent personnel policies and procedures which govern the personnel functions of local health departments. KRS 211.1755 provides for the promulgation and subject matter of administrative regulations for the personnel program.

(d) The benefits expected from the administrative regulation are: Consistent personnel policies and merit system principles that are applicable to county and district health department.

(e) The administrative regulation will be implemented as follows: The Division of State and Local Health Administration, Department for Public Health will be responsible for the implementation through training and communication to employees affected by changes in these amended administrative regulations.

ADMINISTRATIVE REGISTER - 303

Office of Inspector General

July 7, 1997

Cabinet for Health Services

Office of Inspector General

- (1) **902 KAR 20:091** - Facilities specifications, operation and services; community mental health-mental retardation center.
- (2) The Office of Inspector General intends to promulgate the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 29, 1997, at 9 a.m. in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 29, 1997, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mae B. Lewis, Cabinet Regulation Coordinator, Office of the Counsel, Cabinet for Health Services, 275 East Main Street, 4-West, Frankfort, Kentucky 40621, Telephone: (502) 564-7900, Fax: (502) 564-7573.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from: Administrative Regulation Coordinator, Office of Inspector General, CHR Building, 4-East, 275 East Main Street, Frankfort, Kentucky 40621.
- (c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans with Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (V/TDD).
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of all of the administrative regulations relating to health facilities and health services is KRS 216B.042 and 216B.105. The prescription of drugs and medicine by advanced registered nurse practitioners is pursuant to KRS 314.011(8) and 314.042(8).
 - (b) The cabinet intends to amend Section 3(5)(b) to clarify the supervisory responsibilities of the psychiatrist. Section 4(3) will be amended to revise the requirement that all treatment plans be signed by a physician. Section 4(6)(g) will be amended to address the prescriptive authority of advanced registered nurse practitioners. Section 5(1)(b) will be amended to modify language that refers to persons with a disability. Other amendments will delete references to the Cabinet for Human Resources and will refer to the Cabinet for Health Services in accordance with Executive Order 96-862, and will comply with drafting requirements of KRS Chapter 13A.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: To comply with the mandate of KRS 216B.042 and 216B.105 in the establishment of licensure requirements for the operation of community mental health-mental retardation centers.
 - (d) The benefits expected from these proposed amendments are that they will permit other categories of health professionals to perform tasks presently restricted to psychiatrists and physicians by the existing regulations. The amendment to Section 5(1)(b) will comply with the principles of the Americans with Disabilities Act of 1990.
 - (e) The administrative regulation will be implemented as follows: By the Division of Licensing and Regulation in the Office of Inspector General, Cabinet for Health Services.

Office of Radiation Control

July 15, 1997

Cabinet for Health Services

Department for Public Health

Office of Radiation Control

- (1) **902 KAR 100:019**. Standards for protection against radiation, provides standards for the protection of the user and general public against radiation exposure and establishes standards for protection against ionizing radiation resulting from activities conducted by persons issued licenses or registrations by the cabinet.
- (2) The Cabinet for Health Services, Department for Public Health, Division of Environmental Health and Community Safety, intends to amend 902 KAR 100:019 governing the subject matter cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 29, 1997 at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 29, 1997, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mae B. Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, Telephone: (502) 564-7900, Fax: (502) 564-7573.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or

ADMINISTRATIVE REGISTER - 304

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from Dee Swain, Administrative Regulation Coordinator, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans with Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulation.

(a) KRS 211.844 provides the statutory authority for the promulgation of administrative regulations relating to ionizing radiation by the Cabinet for Health Services.

(b) The administrative regulation that the Cabinet for Health Services, Department for Public Health intends to amend, concerns the standards for protection against radiation for the user and general public and establishes standards for protection against ionizing radiation resulting from activities conducted by persons issued licenses or registrations by the cabinet.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The amendment is necessary to meet U.S. Nuclear Regulatory Commission's requirements of Agreement State Compatibility as required by Section 274 of the Atomic Energy Act, as amended. KRS 211.844(2) states the Cabinet for Health Services shall issue licenses pertaining to radioactive materials and require registration of other sources of ionizing radiation. KRS 211.842(3) states the Cabinet for Human Resources shall develop and conduct programs for evaluation and control of hazards associated with the use of sources of ionizing, nonionizing, and electronic product radiation. KRS 211.844 states the Cabinet for Human Resources shall provide administrative regulations for the registration and licensing of the possession and use of any source of ionizing radiation or electronic product radiation and the handling and disposal of radioactive waste. 902 KAR 100:165 provides general provisions and requirements for notices, reports and instructions to employees.

(d) The benefits expected from this administrative regulation are: The amended administrative regulation provides additional constraints on air emissions released by licensees which will result in a lower exposure to members of the public and the environment and will revise patient release criteria to conform with provisions in 902 KAR Chapter 100:073.

(e) The administrative regulation will be implemented as follows: The Division of Environmental Health and Community Safety, Department for Public Health will be responsible for the implementation of the administrating regulation.

CABINET FOR FAMILIES AND CHILDREN Department for Social Insurance Division of Management and Development

July 14, 1997

Cabinet for Families and Children

Department for Social Insurance

Division of Management and Development

(1) **904 KAR 2:017.** Job opportunities and basic skills (JOBS) child care and supportive services.

(2) Cabinet for Families and Children, Department for Social Insurance intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 29, 1997, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 29, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Judy Trigg, Cabinet for Families and Children, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900, FAX: (502) 564-7573.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Social Insurance, Division of Management and Development, Third Floor West, CHR Building, 275 East Main, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Families and Children's regulations may call toll free 1-800-372-2973 (V/TTY).

(7) Information relating to the proposed administrative regulation.

(b) The administrative regulation that the Department for Social Insurance intends to promulgate will amend the provisions for supportive services for Kentucky Works, the work program for the Kentucky Transitional Assistance Program (K-TAP) that replaces the Job Opportunities and Basic Skills (JOBS) program. The amendment will bring Kentucky in compliance with the federally mandated work requirements found in 42 USC 601 et seq.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation is necessary to implement the supportive services for the mandated work requirements found in 42 USC 601 et seq., in order to implement the requirements in the Temporary Assistance for Needy Families (TANF) block grant program that replaces the AFDC and the Job Opportunities and Basic Skills (JOBS) programs. The Cabinet for Families and Children is required to include the mandatory work provisions of 42 USC 601 et seq. in the Title

ADMINISTRATIVE REGISTER - 305

IV-A State Plan. Transportation payments will change based on a monthly payment rate basis instead of a flat per day rate. Car repair expenses will be added as a nonrecurring expense. Limitations on other supportive services will be reduced from a cumulative limit of \$200 from \$300 in a twelve (12) month period. Preemployment and employment supportive services will be added to enable the individual to accept a new job or retain an existing one, limited to \$200 in a twelve (12) month period. References to Aid to Families with Dependent Children (AFDC) have been changed to Kentucky Transitional Assistance Program (K-TAP) to conform with the provisions in 904 KAR 2:006E and 2:016E.

(d) The benefits expected from administrative regulation are: It is necessary to promulgate this administrative regulation to bring Kentucky in compliance with the mandated requirements found in 42 USC 601 et seq. This administrative regulation will replace the Job Opportunities and Basic Skills (JOBS) program with Kentucky Works.

(e) The administrative regulation will be implemented as follows: The Cabinet for Families and Children, the Department for Social Insurance will be responsible for implementing the administrative regulation.

July 14, 1997

Cabinet for Families and Children

Department for Social Insurance

Division of Management and Development

(1) **904 KAR 2:370**. Technical requirements; job opportunities and basic skills.

(2) Cabinet for Families and Children, Department for Social Insurance intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 29, 1997, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 29, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Judy Trigg, Cabinet for Families and Children, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900, FAX: (502) 564-7573.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Social Insurance, Division of Management and Development, Third Floor West, CHR Building, 275 East Main, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Families and Children's regulations may call toll free 1-800-372-2973 (V/TTY).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to KRS 194.050(1), 205.200(2), EO 96-862 and 42 USC 601 et seq.

(b) The administrative regulation that the Department for Social Insurance intends to promulgate will amend the technical requirements for Kentucky Works, the work program for the Kentucky Transitional Assistance Program (K-TAP) that replaces the Job Opportunities and Basic Skills (JOBS) program. The amendment will bring Kentucky in compliance with the federally mandated work requirements found in 42 USC 601 et seq.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation is necessary to implement the mandated requirements found in 42 USC 601 et seq., in order to implement the work requirements in the Temporary Assistance for Needy Families (TANF) block grant program that replaces the AFDC and the Job Opportunities and Basic Skills (JOBS) programs. The Cabinet for Families and Children is required to include the mandatory work provisions of 42 USC 601 et seq. in the Title IV-A State Plan. This administrative regulation will replace the Job Opportunities and Basic Skills (JOBS) program with Kentucky Works. We intend to amend provisions for program participation including exceptions, requirements, penalties and good cause for noncompliance. References to Aid to Families with Dependent Children (AFDC) have been changed to Kentucky Transitional Assistance Program (K-TAP) to conform with the provisions in 904 KAR 2:006E and 2:016E.

(d) The benefits expected from administrative regulation are: It is necessary to promulgate this administrative regulation to bring Kentucky in compliance with the mandated requirements found in 42 USC 601 et seq.

(e) The administrative regulation will be implemented as follows: The Cabinet for Families and Children, the Department for Social Insurance will be responsible for implementing the administrative regulation.

CABINET FOR HEALTH SERVICES Department for Mental Health and Mental Retardation Services Division of Substance Abuse

July 10, 1997

Cabinet for Health Services

Department for Mental Health and Mental Retardation Services

Division of Substance Abuse

(1) **908 KAR 1:380**. Licensing standards for agencies operating alcohol and other drug abuse prevention programs.

(2) The Department for Mental Health/Mental Retardation Services intends to promulgate an administrative regulation governing the subject

ADMINISTRATIVE REGISTER - 306

matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 29, 1997, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 29, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mae B. Lewis, Cabinet for Health Services, Office of the Counsel, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, FAX (502) 564-7573.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Mental Health and Mental Retardation Services, Division of Administration and Financial Management, 275 East Main Street, Frankfort, Kentucky 40621.

(c) NOTE: Requests for notification and the notice of intent to promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Human Resources' regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the licensing procedures and standards for agencies operating alcohol and other drug abuse treatment programs is KRS 194.050 and 222.231.

(b) The administrative regulation that the Department for Mental Health and Mental Retardation Services intends to promulgate will not amend an existing administrative regulation. It will provide for a single set of licensure standards for agencies operating both alcohol and other drug abuse treatment programs, as mandated by KRS 222.231, a new statute enacted in the regular session of the 1994 legislature.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation provides licensure requirements which establish minimum standards for agencies operating alcohol and other drug abuse prevention programs.

(d) The benefits expected from the administrative regulation are: The licensure standards will improve the quality of services delivered to participants of alcohol and other drug abuse prevention programs, in part due to the increase in requirements related to staff credentials. Enhancing the quality of these services will decrease the risk of abuse of alcohol and other drugs in the state, thereby improving the health and safety of the citizens of the Commonwealth.

EMERGENCY ADMINISTRATIVE REGULATIONS NOW IN EFFECT

(NOTE: Emergency administrative regulations expire 170 days from publication or upon replacement, repeal, or withdrawal)

STATEMENT OF EMERGENCY
200 KAR 23:010E

This emergency administrative regulation establishes the limits under which the Kentucky Asset/Liability Commission shall enter into financial agreements as provided in House Bill 5 of the 1997 Extraordinary Session of the General Assembly, Section 5(9). The General Assembly declared that an emergency existed with respect to House Bill 5 of the 1997 Extraordinary Session of the General Assembly, directing that the Act take effect upon its passage and approval by the Governor as it is in the best interests of the Commonwealth to implement cost-saving and efficiency measures as expeditiously as possible. Section 5(9) directs that administrative regulations be promulgated to limit the net exposure of the Commonwealth as a result of the use of financial agreements. Immediate implementation of House Bill 5 requires promulgation of this administrative regulation on an emergency basis under KRS 13A.190(1). This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on June 25, 1997.

PAUL E. PATTON, Governor
JOHN P. MCCARTY, Secretary

FINANCE AND ADMINISTRATION CABINET
Kentucky Asset/Liability Commission

200 KAR 23:010E. Guidelines for use of financial agreements.

RELATES TO: KRS Chapter 56 as provided in House Bill 5 of the 1997 Extraordinary Session of the General Assembly, Section 5(9)

STATUTORY AUTHORITY: KRS Chapter 56 as provided in House Bill 5 of the 1997 Extraordinary Session of the General Assembly, Section 5(2) and (9)

EFFECTIVE: June 25, 1997

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 56 as provided in House Bill 5 of the 1997 Extraordinary Session of the General Assembly, Section 5(9) requires that the Kentucky Asset/Liability Commission promulgate administrative regulations that limit the net exposure of the Commonwealth as a result of the commission entering into financial agreements. This administrative regulation establishes the limits under which the commission may enter into financial agreements.

Section 1. Definitions. For the purpose of this administrative regulation:

(1) "Hedge" means a position in a financial agreement taken to minimize or eliminate the risk associated with an existing instrument or portfolio of instruments;

(2) "Net exposure" means the difference between the sum of the notional amount of financial agreements based on interest-sensitive assets or interest-sensitive liabilities under which variable payments are owed, less the sum of the notional amount of financial agreements based on interest-sensitive assets or interest-sensitive liabilities under which fixed payments are owed, respectively;

(3) "Notional amount" means the nominal amount on which a financial agreement is based;

(4) "Obligations" means notes, leases, bonds, or other financial liabilities;

(5) "Par amount" means the face or nominal value of a security.

Section 2. Goals of the Commission in the Use of Financial Agreements. The goals of the commission in the use of financial agreements shall include, but not be limited to, the following:

(1) To effectively manage the Commonwealth's net interest margin by more efficiently matching interest-sensitive assets with interest-sensitive liabilities;

(2) To hedge any of the Commonwealth's obligations from adverse changes in interest rates;

(3) To utilize financial agreements to lower interest expenses or the risk of fluctuating interest rates to the Commonwealth; and

(4) To better manage debt service reserve funds and advance refunding escrow accounts.

Section 3. Guidelines of the Commission in the Use of Financial Agreements. The commission shall enter into financial agreements pursuant to the following guidelines:

(1) The commission shall utilize financial agreements in a prudent and nonspeculative manner;

(2) The commission shall only enter into financial agreements with parties which are rated in one (1) of the three (3) highest rating categories by a nationally recognized rating agency;

(3) Financial agreements resulting in variable rate obligations for the Commonwealth shall be entered into only if the aggregate of all variable rate obligations under financial agreements does not exceed a net exposure of more than ten (10) percent of state obligations outstanding which are supported by appropriations by the General Assembly at the time the agreement is executed. Financial agreements utilized related to the issuance of tax and revenue anticipation notes shall be excluded from this limitation;

(4) Financial agreements utilized for the purpose of refunding or aiding in the refunding of obligations of the Commonwealth shall be limited to a notional amount not to exceed the par amount and stated final maturity of the refunding obligations;

(5) Financial agreements utilized as part of a debt service reserve fund investment strategy shall be limited to a notional amount not to exceed the maximum required debt service reserve fund amount required under the resolution, trust indenture, or agreement establishing the debt service reserve fund;

(6) Financial agreements utilized for the purpose of maximizing investment income and alleviating mismatches between an advance refunding escrow and debt service payments due on an obligation shall be limited to a notional amount not to exceed the par amount of the securities held in the escrow plus interest; and

(7) No more than ten (10) percent of the Commonwealth's investment portfolio shall be subject to financial agreements utilized for the purpose of managing the net interest margin. Financial agreements based on the Commonwealth's interest-sensitive assets shall be coordinated with the State Investment Commission.

JOHN P. MCCARTY, Chairman

APPROVED BY AGENCY: June 25, 1997

FILED WITH LRC: June 25, 1997 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: F. Thomas Howard, Deputy Executive Director, Office of Financial Management and Economic Analysis, 702 Capitol Avenue, Suite 261, Frankfort, Kentucky, 40601, (502) 564-2924.

(1) Type and number of entities affected: This administrative regulation affects the State Investment Commission and the Finance

and Administration Cabinet in the Executive Branch.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. There is no anticipated cost or savings on the cost of living and employment in the geographical area in which the administrative regulation will be implemented. A public hearing on this regulation has not yet taken place.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. This administrative regulation poses no anticipated cost on business in the geographical area in which it will be implemented. A public hearing on this regulation has not yet taken place.

(c) Compliance, reporting and paperwork requirements of those affected, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: There are no compliance, reporting, or paperwork requirements associated with this administrative regulation. Nor will there be any effect upon competition.

2. Second and subsequent years: Same as first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Savings will result from increased investment income on the Commonwealth's assets and decreased interest costs on the Commonwealth's liabilities.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: No other factors are known at this time.

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: No impact is expected on local revenues. State investment income revenue is expected to be enhanced.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No funds are anticipated to be required for implementation and enforcement of the administrative regulation. If funds are required, the source would be the General Fund.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No impact is expected; however, there has not yet been a public hearing on the regulation.

(b) Kentucky: No impact is expected; however, there has not yet been a public hearing on the regulation.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other methods were considered as the regulation implements limits required to be established by Section 5 of House Bill 5.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No impact is expected.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No impact would result.

(c) If detrimental effect would result, explain detrimental effect: Inapplicable

(9) Identify any statute, rule, administrative regulation or government policy which may be in conflict, overlapping, or duplication: To the best knowledge of the Finance and Administration Cabinet, Office of Financial Management and Economic Analysis, no statutes, administrative regulations, or government policies conflict, overlap, or duplicate this administrative regulation.

(a) Necessity of proposed regulation if in conflict: Inapplicable

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Inapplicable

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The regulation only applies to one to entity, the Kentucky Asset/Liability Commission. The goals and guidelines for the use of financial agreements are uniformly applied to this entity.

STATEMENT OF EMERGENCY 780 KAR 2:130E

This emergency administrative regulation clarifies standards for admission into a Kentucky TECH postsecondary institution and allows for specific admission requirements to be moved into policy and procedure. The reasons why an ordinary administrative regulation is not sufficient. There are at least two (2) reasons why the current administrative regulation is not sufficient: (1) PL 104-193, The Personal Responsibility and Work Opportunity Reconciliation Act of 1196 necessitates open entry into postsecondary institutions; and (2) the current administrative regulation contains specific language that restricts admission. The intent of these requirements will be better served through policy and procedure. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 780 KAR 2:130 will be filed with the Regulations Compiler along with the emergency administrative regulation.

PAUL E. PATTON, Governor
RODNEY CAIN, Secretary

WORKFORCE DEVELOPMENT CABINET State Board for Adult and Technical Education

780 KAR 2:130E. Minimum standards of admission for postsecondary students ~~[in vocational-technical programs]~~.

RELATES TO: KRS 151B.025, 151B.110, 151B.150
STATUTORY AUTHORITY: KRS 151B.110, 151B.150
EFFECTIVE: July 14, 1997

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.150 vests the State Board for Adult and Technical Education with authority to carry out the purpose ~~[purposes]~~ of the state's vocational-technical education program and adopted federal acts relative thereto and KRS 151B.110 grants authority for the management of the Kentucky TECH schools. The purpose of this administrative regulation is to establish minimum standards of admission ~~[entrance requirements]~~ for postsecondary students that, within available resources, allow applicants an opportunity for technical education appropriate to their interests and abilities. ~~[entering vocational-technical programs, to establish a base for determining if students may receive advanced placement, to assist in developing remedial plans for students who need help in meeting minimum admission requirements, and to determine if a student needs additional assessment.]~~

Section 1. The Kentucky TECH System has open admission for any postsecondary applicant pursuing training options leading to other than a certificate or diploma. ~~[Students admitted to the school shall meet program admission standards prior to admission to the occupational program. All occupational programs are classified as either Category I, II, or III for the purpose of setting academic standards. Course classifications and any other specific program admission requirements are available from the Kentucky Tech Office in the Department for Technical Education and from all Kentucky TECH schools. Program categories are based on the level of difficulty of required texts and the technical nature of the curriculum.]~~

~~[(1) Scale scores from the Test of Adult Basic Education (TABE) or composite score from the American College Test (ACT) will be used for program placement and for a remedial plan to help students meet minimum program requirements.]~~

ADMINISTRATIVE REGISTER - 309

(2) ~~Students enrolling in Category III programs shall have the following scale scores prior to program entry:~~

	TABE	ACT
	Form 5 6A/D	Composite Score
Reading	730	16
Math	764	

~~Students enrolled in Category III programs shall be enrolled in math and reading programs to improve their skills. Enrollment may be concurrent with or prior to program enrollment. Students pursuing a diploma shall continue improvement of reading and math scores until scores in subsection (3) of this section are met.~~

~~(3) Students enrolling in Category II programs shall have the following scale scores prior to program entry:~~

	TABE	ACT
	Form 5 6A/D	Composite Score
Reading	770	16
Math	786	

~~(4) Students enrolling in Category I programs shall have the following scale scores to be admitted to the program:~~

	TABE	ACT
	Form 5 6A/D	Composite Score
Reading	776	16
Math	790	

~~Applicants for Category I programs who meet subsection (3) of this section scores but do not meet scores identified in subsection (4) of this section may be enrolled in Category I programs if they successfully complete required technical core classes for that program.~~

~~(5) Where applicable, all programs shall operate according to guidelines developed by state or national licensure, certification, and registration agencies with jurisdiction over graduates seeking employment in occupations governed by such agencies. In addition, any program operated under contract for a specific business or industry shall conform to the requirements of the industry for admission of students.~~

~~Section 2. Any postsecondary applicant pursuing a certificate or diploma shall meet the following minimum requirements for admission [requirements shall apply] to a Kentucky TECH school [postsecondary students in an occupational preparation program of 300 hours or more]:~~

~~(1) Is at least [Must be] sixteen (16) years of age [or older for enrollment in programs required to meet licensure standards].~~

~~(2) Has earned [Completion of] a high school diploma or its equivalent. An applicant [For Category III programs, students may be admitted] without a high school diploma or its equivalent may be admitted conditionally [as a special status student] provided an agreement [the student agrees] to pursue the high school equivalency certificate is signed [and complete the GED prior to graduation].~~

~~(3) Submits [Submit a transcript of secondary and postsecondary work, GED test scores if applicable, and scores on the Test of Adult Basic Education (TABE) if taken in the last three (3) years or American College Test (ACT) if taken in the last five (5) years. Students who cannot provide] current entrance test scores [which meet minimum reading and math scores shall take the Test of Adult Basic Education or make arrangements to take the ACT. Students with disabilities shall be provided reasonable accommodations for assess-~~

~~ments].~~

~~(4) Declares a program major.~~

Section 3. All certificate and diploma programs are classified as Category I, II, or III for the purpose of setting academic standards. Categories are based on the level of difficulty of required texts and the technical nature of the curriculum. Programs with selective admission may have additional standards.

(1) Each program certificate and diploma category shall have minimum requirements for unconditional entry. An applicant is admitted as unconditional when all program entry requirements are met.

(2) Applicants may be granted conditional enrollment status when academic skills need to be improved in order to meet program entry requirements. An individual career plan must be developed prior to enrollment and progress monitored each grading period. Students admitted with conditional status must make satisfactory progress in both academic and occupational courses. [Students may be admitted to the school upon completion of application, required records, and testing as outlined in Section 2 of this administrative regulation and may pursue instruction in a basic academic skills program, career exploration, core elective courses, and modified/special programs. Students with disabilities shall be provided reasonable accommodations.]

Section 4. Students who [5. The following minimum requirements shall apply to advanced standing for] transfer [students] from other accredited institutions and request course credit transfer or advanced placement into a program shall provide official transcripts and any required records and reports. [-

(1) The student shall supply the name and address of all previous institutions that provided training;

(2) The student shall provide a record of competencies achieved, length of training, date of enrollment, and date of withdrawal from each institution attended. The receiving school may validate competencies through testing and interviewing and/or school admission requirements; and

(3) The student shall provide all records and reports which are required by the state boards and/or licensing agencies for a given vocational technical program.]

Section 5. [4.] Kentucky TECH schools shall not discriminate on the basis of race, color, national origin, religion, marital status, age, sex, or disability.

Section 6. This administrative regulation shall be implemented in all Kentucky TECH schools. [Any person on a preregistration waiting list who does not meet new requirements shall be permitted to retest.]

J. LARRY STINSON, Chairman

APPROVED BY AGENCY: June 19, 1997

FILED WITH LRC: July 14, 1997 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: Kentucky TECH schools - 25 postsecondary schools and the secondary area technology centers which serve postsecondary students are affected.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. None

(c) Compliance, reporting, and paperwork requirements, including

ADMINISTRATIVE REGISTER - 310

factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None
2. Second and subsequent years: None
3. Effects on the promulgating administrative body:
 - (3)(a) Direct and indirect costs or savings:
 1. First year: None
 2. Continuing costs or savings: None
 3. Additional factors increasing or decreasing costs: None
 - (b) Reporting and paperwork requirements: No new or additional reporting and paperwork requirement.
 - (4) Assessment of anticipated effect on state and local revenues: None
 - (5) Source of revenue to be used for implementation and enforcement of administrative regulation: None
 - (6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
 - (a) Geographical area in which administrative regulation will be implemented: None
 - (b) Kentucky: None
 - (7) Assessment of alternative methods; reasons why alternatives were rejected: None
 - (8) Assessment of expected benefits:
 - (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None
 - (b) State whether a detrimental effect on environment and public health would result if not implemented: None
 - (c) If detrimental effect would result, explain detrimental effect: None
 - (9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
 - (10) Any additional information or comments: None
 - (11) TIERING: Is tiering applied? No. The same admission standards apply to everyone across the Commonwealth.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. None
2. State compliance standards. None
3. Minimum or uniform standards contained in the federal mandate. None
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. None

STATEMENT OF EMERGENCY 787 KAR 1:200E

This administrative regulation sets forth the maximum weekly benefit rate allowed for unemployment insurance benefit claimants during the year beginning July 1, 1997, and ending June 30, 1998. Under KRS Chapter 13A, the Workforce Development Cabinet is required to implement this administrative regulation in order to have sufficient authority for the declaring of a maximum benefit rate. Therefore, in order to properly establish a maximum weekly unemployment insurance rate for the year beginning July 1, 1997, it is necessary that the Workforce Development Cabinet implement this emergency administrative regulation. An ordinary administrative regulation will not suffice because the correct weekly benefit amount would not be declared in a time for claims filed in July. This emergency administrative regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A. A "Notice of

Intent to Promulgate Administrative Regulation" shall be filed with the Regulations Compiler along with the emergency administrative regulation.

PAUL E. PATTON, Governor
RODNEY S. CAIN, Secretary

WORKFORCE DEVELOPMENT CABINET Department for Employment Services Division of Unemployment Insurance

787 KAR 1:200E. Maximum weekly benefit rate.

RELATES TO: KRS 341.380

STATUTORY AUTHORITY: KRS 151B.020, 341.115

EFFECTIVE: June 27, 1997

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.380 requires the Secretary for Workforce Development to determine the average weekly wage for insured employment. Fifty-five (55) percent of this amount adjusted to the nearest multiple of one (1) dollar constitutes the maximum weekly unemployment insurance benefit rate for those workers whose benefit year commences on or after July 1, 1997 [~~1996~~], and prior to July 1, 1998 [~~1997~~]. This administrative regulation applies the mathematical computation required by statute and contains the determination of the maximum weekly benefit rate.

Section 1. The secretary finds the following to exist:

- (1) The "total monthly employment" reported by subject employers for the calendar year of 1996 [~~1995~~] was 18,934,441 [~~18,593,452~~];
- (2) The "average monthly employment," obtained by dividing the total monthly employment by twelve (12), was 1,557,870 [~~1,549,454~~];
- (3) The "total wages" reported by subject employers for the calendar year of 1996 [~~1995~~] was \$38,182,050,349 [~~\$36,047,761,705~~];
- (4) The "average weekly wage" for the calendar year of 1996 [~~1995~~] for insured employment, obtained by dividing the average monthly employment into total wages for such year and dividing by fifty-two (52), was \$465.36 [~~\$447.03~~];
- (5) Fifty-five (55) percent of the average weekly wage of \$465.36 [~~\$447.03~~] for the calendar year of 1996 [~~1995~~] was 255.95 [~~\$246.87~~].

Section 2. On the basis of the above findings, and in accordance with KRS 341.380(3), the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July 1997 [~~1996~~], and prior to the first day of July 1998, is determined to [~~1997, shall~~] be 256 [~~\$246~~].

RODNEY S. CAIN, Secretary
RHONDA K. RICHARDSON, Commissioner
APPROVED BY AGENCY: June 24, 1997
FILED WITH LRC: June 27, 1997 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

- (1) Type and number of entities affected: All eligible UI recipients for the year July 1, 1997, through June 30, 1998.
- (2) Direct and indirect costs or savings on the:
 - (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None
 - (b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None
 - (c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

ADMINISTRATIVE REGISTER - 311

1. First year: An additional \$9.8 million paid to eligible UI recipients.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect cost or savings:

1. First year: An additional \$9.8 million paid from the Unemployment Insurance Trust Fund to UI recipients.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: The number of people filing UI claims may increase or decrease.

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: 100% federal funds (BCAA).

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods available in accordance with statutory requirements.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: NA

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: NA

(10) Any additional information or comments: This regulation satisfies the statutory requirements of KRS 341.380(3), which mandates that the secretary determine the maximum weekly unemployment insurance benefit rate prior to July 1 of each year.

(11) TIERING: Is tiering applied? Tiering was not applied as all claimants are treated equally.

create a deficit. If this were to occur, their tax rate would go up. If a local government agency chooses to be a reimbursing employer, where they would pay out of the reserve account dollar for dollar for every claim filed against them, their expenditures will likely increase.

STATEMENT OF EMERGENCY 904 KAR 2:017E

This emergency administrative regulation is needed to comply with the mandated requirements pursuant to the approved Title IV-A State Plan as required by 42 USC 601 et seq. and to conform with the provisions found in 904 KAR 2:006E and 2:016E. The passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 has eliminated entitlement to the Aid to Families with Dependent Children (AFDC) program and has created the Temporary Assistance for Needy Families block grant program, called the Kentucky Transitional Assistance Program (K-TAP) in Kentucky. The Cabinet for Families and Children is required to include the mandatory work provisions of 42 USC 601 et seq. in the Title IV-A State Plan. References to Aid to Families with Dependent Children (AFDC) have been changed to Kentucky Transitional Assistance Program (K-TAP) to conform with the provisions in 904 KAR 2:006E and 2:016E. The deadline imposed by the Department of Health and Human Services for the complete Title IV-A State Plan for implementation of the mandated requirements of the cabinet's Title IV-A block grant program is October 18, 1996. Therefore, in order to meet this deadline by the U.S. Department of Health and Human Services, this emergency administrative regulation must be placed in effect immediately in order to amend the requirements in 904 KAR 2:017. An ordinary administrative regulation would not allow sufficient time to meet the time frames. The emergency administrative regulation filed on March 27, 1997, was withdrawn and this substantially different emergency amendment to this administrative regulation promulgated. This emergency administrative regulation is substantially different from the withdrawn emergency administrative regulation because of clarifying the exception of unsubsidized employment for the provision of transportation services for component participation. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
VIOLA P. MILLER, Secretary

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. All local government agencies could be affected, but only if they have unemployment insurance claims filed against them.

3. State the aspect or service of local government to which this administrative regulation relates. Relates to their payment of unemployment benefits to former employees.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-): Nondeterminable

Other Explanation: Effective July 1, 1997, the maximum weekly benefit rate will increase to \$256, an increase of \$10 per claim over the present rate of \$246. If a local government agency chooses to file and pay unemployment insurance taxes quarterly, this potential \$10 increase per claim could deplete their reserve account faster and

CABINET FOR FAMILIES AND CHILDREN Department for Social Insurance Division of Management and Development

904 KAR 2:017E. Kentucky Works [~~Job opportunities and basic skills (JOBS) child care and~~] supportive services.

RELATES TO: KRS 205.200(2), 205.211, 42 USC 601 et seq., 602 [~~45 CFR 250.0, 250.1, 250.11, 250.12, 250.48, 255.0, 255.2, 255.3, 255.4, 255.5, 255.6~~]

STATUTORY AUTHORITY: KRS 194.050(1), 205.200(2), 42 USC 601 et seq., EO 96-862

EFFECTIVE: July 14, 1997

NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Social Insurance and its programs under the Cabinet for Families and Children. The Cabinet for Families and Children [~~Human Resources~~] is required to administer the public assistance programs. KRS 205.200(2) requires that the conditions of eligibility to receive Kentucky Transitional Assistance Program [AFDC] money grants be prescribed by administrative regulations in conformity with 42 USC 602 and federal regulations. This administrative regulation sets forth the requirements for receiving

Kentucky Works [job opportunities and basic skills (JOBS)] child care and supportive services.

Section 1. Definitions. (1) "Approved Kentucky Works [JOBS] activities" means participation in an allowable activity pursuant to 904 KAR 2:370E, Section 2. [component, precomponent, component preparation, preemployment, transitional extension or self-initiated JOBS activities which have been determined by the Department for Social Insurance to be consistent with employment goals.]

(2) "Cabinet" means the Cabinet for Families and Children.

(3) "Center-based child care" means full- or part-time:

(a) Type I nonresidential licensed care, day or night, provided for seven (7) or more unrelated children; or

(b) Residential care, day or night, provided for thirteen (13) or more unrelated children.

(4) ~~[(3)]~~ "Certified child care" means child care which is provided in a private home, day or night, for six (6) or fewer unrelated children and the provider is registered with the Cabinet for Families and Children [Human Resources], Department for Social Services. Standards for certification are contained in 905 KAR 2:100.

~~[(4)]~~ "Combination programs" means any educational program which includes as its basic literacy, ABE or GED. This program shall also include life skills, skills training or job readiness training.

(5) "Component" means services and activities pursuant to such as education, job skills training, job readiness, job development and placement, job search, on-the-job training, alternative work experience program, other work experience program or community work experience program activities available under the Job Opportunities and Basic Skills (JOBS) Program. Each individual component is described in 904 KAR 2:370E.

(6) "Component preparation" means the period in which assessment, testing, completion of the transitional assistance agreement Form KW-202, [development of the employability plan] and referrals for removal of concerns [barriers] takes place.

(7) "Enrolled or enrollment" means the process by which an unregulated provider becomes eligible for payment by completing the application and provider enrollment pursuant to 905 KAR 2:140.

(8) "Family child care" means:

(a) Child care homes which are mandatorily certified to provide care for four (4) to six (6) unrelated children or voluntarily certified to care for three (3) or fewer unrelated children who are subject to health and safety requirements of 905 KAR 2:100; or

(b) Enrolled [Unregulated] care provided for no more than three (3) unrelated children pursuant to 905 KAR 2:140.

(9) ~~[(9)]~~ "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

(10) ~~[(9)]~~ "Group home child care" means Type II residential licensed care, day or night, provided for seven (7) to twelve (12) unrelated children.

(11) ~~[(10)]~~ "In-home child care" means care provided to a child in his or her own home.

(12) ~~[(11)]~~ "Licensed child care providers" means day care facilities which provide care for seven (7) or more unrelated children, which are licensed by the Division of Licensing and Regulation, Office of the Inspector General, as provided in 905 KAR 2:090.

(13) ~~[(12)]~~ "Part-time employment" means employment of less than thirty (30) hours per week or 130 hours per month or not employed throughout the entire month.

(14) ~~[(13)]~~ "Precomponent" means a waiting period between the dates of component assignment and component commencement.

(15) ~~[(14)]~~ "Preemployment" means a waiting period between the dates of hiring and employment commencement.

(16) ~~[(15)]~~ "Recoupment" means recovery of overpayments of child care.

~~[(16)]~~ "Self-initiated" means approved participation in which education or training activities are initiated by the client and determined to meet agency criteria. Specific criteria is contained in 904

KAR 2:370.

(17) "Transitional extension" means a period of up to ninety (90) days subsequent to the discontinuance of the Kentucky Transitional Assistance Program [AFDC] case in which supportive service payments may continue if:

(a) The case is not discontinued due to fraudulent activity; and
(b) The case is not discontinued due to failure to comply with procedural requirements; and

(c) The Kentucky Works [JOBS] participant elects to continue the approved component activity in which she is engaged at the time of discontinuance.

(18) "Unregulated child care providers" means private providers, such as ~~friends or~~ relatives, who are not required to be certified, ~~or~~ licensed, or enrolled pursuant to 905 KAR 2:140.

Section 2. Payment Entitlement. (1) With the exception of payments described in Sections 7 and 10 ~~[8 and 12]~~ of this administrative regulation those individuals participating in the Kentucky Works [JOBS] Program shall be entitled to payment of:

(a) Child care;

(b) Transportation; and

(c) Other supportive services costs necessary for participation in an approved Kentucky Works [JOBS] activity, as described in Section 10 ~~[12]~~ of this administrative regulation.

(2) Kentucky Works [JOBS] activities are described in 904 KAR 2:370E.

Section 3. Child Care Eligibility in Kentucky Works [JOBS] Components. (1) Child care shall be paid for a child meeting the following criteria:

(a) The child is under thirteen (13); or

(b) A dependent child who is physically or mentally incapable of caring for himself, as verified by the written determination of:

1. A physician; or

2. A licensed or certified psychologist; or

(c) A needy dependent child under court supervision; or

(d) Would be a dependent child except for the receipt of benefits under supplemental security income (SSI) under 42 USC 1382 or foster care under 42 USC 672.

(2) Child care shall be provided in the following situations:

(a) Precomponent;

(b) Component preparation;

(c) Component participation;

(d) Preemployment; or

(e) On-the-job training (OJT) participants discontinued from Kentucky Transitional Assistance Program [AFDC], until the end of the component placement.

Section 4. ~~[Child Care Eligibility in Self-initiated Activities. (1) Child care shall be provided in the same situations as in JOBS components with the following exceptions:~~

~~(a) Discontinued OJT participants;~~

~~(b) Component preparation; and~~

~~(c) Precomponent, for persons waiting to enter self-initiated activities for the first time.~~

~~(2) Child care shall be provided only for approved self-initiated activities.~~

Section 5. Child Care Limitations. (1) Child care payments shall:

(a) Be made directly to the provider, in an amount equal to the actual cost, up to a payment maximum based on local market rates for components which do not provide earned income.

(b) Be allowed as a deduction as outlined in administrative regulation 904 KAR 2:016E for any component yielding earned income.

(2) Payments shall not be made to a provider if the provider is:

(a) The parent or stepparent;

ADMINISTRATIVE REGISTER - 313

- (b) The legal guardian;
 - (c) A member of the Kentucky Transitional Assistance Program [AFDC] assistance unit which includes the child needing care;
 - (d) Not meeting applicable standards of state and local law; ~~or~~
 - (e) Not allowing parental access; or
 - (f) Not enrolled pursuant to 905 KAR 2:140.
- (3) Local market rates shall be determined by:
- (a) The type of provider;
 - (b) The age of the child;
 - (c) The special needs of the child. Special needs shall be verified by:
 1. Entitlement to disability benefits; or
 2. Written statement from a physician or professional from a service agency such as Comprehensive Care, or the Department for Social Services;
 - (d) The amount of time care is needed; and

(e) The geographical boundaries of the fifteen (15) area development districts.

(4) Full-time (FT) and part-time (PT) attendance shall be determined by the provider.

(5) FT and PT daily maximum payment levels and PT monthly maximum payment levels shall be established for the following groups of dependent children:

- (a) "Special needs" includes children in no certain age group;
- (b) "Infants" includes children under age one (1);
- (c) "Toddlers" includes children from age one (1) up to age three (3);
- (d) "Preschool" includes children from age three (3) up to age six (6);
- (e) "School age" includes children age six (6) and over.
- (6) For needs incurred on or after January 1, 1995, child care maximum payments shall be made as follows:

WESTERN REGION URBAN COUNTIES COUNTY NAMES: MCCracken PURCHASE AREA DEVELOPMENT DISTRICT #1

	Special Needs								Pre-School				School-Age			
	PT		Infants		PT		Toddlers		PT		PT		PT		PT	
	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	
Center-based	\$12	16	260	13	16	282	12	16	260	12	14	260	12	9	260	
Group Home	\$13	13	282	12	12	260	11	11	238	11	10	238	11	10	238	
Family/In-Home	\$10	16	217	11	16	238	11	16	238	11	16	238	11	16	238	

WESTERN REGION RURAL COUNTIES COUNTY NAMES: BALLARD, CALLOWAY, CARLISLE, FULTON, GRAVES, HICKMAN, MARSHALL PURCHASE AREA DEVELOPMENT DISTRICT #1

	Special Needs								Pre-School				School-Age			
	PT		Infants		PT		Toddlers		PT		PT		PT		PT	
	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	
Center-based	\$12	16	260	13	16	282	13	16	282	13	14	282	12	9	260	
Group Home	\$13	13	282	13	13	282	13	13	282	13	13	282	13	13	282	
Family/In-Home	\$15	16	325	11	16	238	11	16	238	13	16	282	12	16	260	

WESTERN REGION URBAN COUNTIES COUNTY NAMES: CHRISTIAN PENNYRILE AREA DEVELOPMENT DISTRICT #2

	Special Needs								Pre-School				School-Age			
	PT		Infants		PT		Toddlers		PT		Pre-School		PT		School-Age	
	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	
Center-based	\$12	16	260	13	16	282	12	16	260	12	14	260	11	8	238	
Group Home	\$13	13	282	12	12	260	11	11	238	10	10	217	10	10	217	
Family/In-Home	\$10	16	217	11	16	238	11	16	238	11	16	238	11	16	238	

WESTERN REGION RURAL COUNTIES COUNTY NAMES: CALDWELL, CRITTENDEN, HOPKINS, LIVINGSTON, LYON, MUHLENBURG, TODD, TRIGG PENNYRILE AREA DEVELOPMENT DISTRICT #2

	Special Needs								Pre-School				School-Age			
	PT		Infants		PT		Toddlers		PT		PT		PT		PT	
	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	
Center-based	\$12	16	260	13	16	282	13	16	282	13	14	282	12	8	260	
Group Home	\$13	13	282	13	13	282	11	13	238	13	13	282	13	13	282	
Family/In-Home	\$15	16	325	11	16	238	11	16	238	13	16	282	12	16	260	

ADMINISTRATIVE REGISTER - 314

WESTERN REGION

URBAN COUNTIES

COUNTY NAMES: DAVIESS, HENDERSON

GREEN RIVER AREA DEVELOPMENT DISTRICT #3

	Special Needs						Pre-School						School-Age					
	PT		Infants		PT		Toddlers		PT		Pre-School		PT		School-Age		PT	
	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max
Center-based	\$13	16	282	13	16	282	13	16	282	13	14	282	13	10	282			
Group Home	\$13	13	282	12	12	260	12	11	260	12	10	260	12	10	260			
Family/In-Home	\$11	16	238	11	16	238	11	16	238	11	16	238	11	16	238			

WESTERN REGION

RURAL COUNTIES

COUNTY NAMES: HANCOCK, MCLEAN, OHIO, UNION, WEBSTER

GREEN RIVER AREA DEVELOPMENT DISTRICT #3

	Special Needs									Pre-School			School-Age		
	PT		Infants		PT	Toddlers		PT	PT		PT	PT			
	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max
Center-based	\$13	16	282	13	16	282	13	16	282	13	14	282	13	10	282
Group Home	\$13	13	282	13	13	282	13	13	282	13	13	282	13	13	282
Family/In-Home	\$15	16	325	11	16	238	11	16	238	13	16	282	12	16	260

WESTERN REGION

RURAL COUNTIES

COUNTY NAMES: ALLEN, BARREN, BUTLER, EDMONSON, HART, LOGAN, METCALFE, MONROE, SIMPSON, WARREN

BARREN RIVER AREA DEVELOPMENT DISTRICT #4

	Special Needs									Pre-School			School-Age		
	PT		Infants		PT		Toddlers		PT		PT		PT		
	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max
Center-based	\$13	16	282	13	16	282	13	16	282	13	14	282	12	8	260
Group Home	\$13	13	282	13	13	282	13	13	282	13	13	282	13	13	282
Family/In-Home	\$15	16	325	11	16	238	11	16	238	13	16	282	12	16	260

WESTERN REGION

RURAL COUNTIES

COUNTY NAMES: BRECKINRIDGE, GRAYSON, HARDIN, LARUE, MARION, MEADE, NELSON, WASHINGTON

LINCOLN TRAIL AREA DEVELOPMENT DISTRICT #5

	Special Needs						Pre-School						School-Age					
	PT		Infants		PT		Toddlers		PT		School		PT		Age		PT	
	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max
Center-based	\$12	16	260	13	16	282	13	16	282	13	14	282	12	8	260			
Group Home	\$13	13	282	13	13	282	13	13	282	13	13	282	13	13	282			
Family/In-Home	\$15	16	325	11	16	238	11	16	238	13	16	282	12	16	260			

CENTRAL REGION

URBAN COUNTIES

COUNTY NAMES: BULLITT, JEFFERSON, OLDHAM, SHELBY

KENTUCKIANA REGIONAL PLANNING AND DEVELOPMENT AGENCY AREA DEVELOPMENT DISTRICT #6

	Special Needs									Pre-School			School-Age			
	PT		Infants			PT		Toddlers		PT	School		PT	Age		PT
	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	
Center-based	\$15	15	325	15	12	325	15	14	325	14	15	303	12	16	260	
Group Home	\$14	14	303	14	11	303	14	11	303	13	10	282	11	8	238	
Family/In-Home	\$15	13	325	13	12	282	13	12	282	12	12	260	10	12	217	

ADMINISTRATIVE REGISTER - 315

CENTRAL REGION

RURAL COUNTIES

COUNTY NAMES: HENRY, SPENCER, TRIMBLE

KENTUCKIANA REGIONAL PLANNING AND DEVELOPMENT AGENCY AREA DEVELOPMENT DISTRICT #6

	Special Needs									Pre-School			School-Age			
	PT		Infants			PT		Toddlers		PT		PT		PT		PT
	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	
Center-based	\$15	15	325	16	12	347	16	14	347	15	15	325	14	16	303	
Group Home	\$14	14	303	15	15	325	15	15	325	15	10	325	13	8	282	
Family/In-Home	\$15	13	325	15	12	325	15	12	325	15	12	325	15	12	325	

CENTRAL REGION

URBAN COUNTIES

COUNTY NAMES: BOONE, CAMPBELL, KENTON

NORTHERN KENTUCKY AREA DEVELOPMENT DISTRICT #7

	Special Needs									Pre-School			School-Age			
	PT		Infants		PT	Toddlers		PT	PT		PT	PT		PT		
	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	
Center-based	\$16	16	347	16	13	347	14	14	303	14	15	303	13	16	282	
Group Home	\$15	15	325	15	12	325	13	11	282	13	10	282	12	9	260	
Family/In-Home	\$15	14	325	14	12	303	12	12	260	12	12	260	11	12	238	

CENTRAL REGION

RURAL COUNTIES

COUNTY NAMES: CARROLL, GALLATIN, GRANT, OWEN, PENDLETON

NORTHERN KENTUCKY AREA DEVELOPMENT DISTRICT #7

	Special Needs									Pre-School			School-Age			
	PT		Infants			PT		Toddlers		PT	PT		PT	PT		PT
	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	
Center-based	\$16	16	347	16	13	347	16	14	347	15	15	325	14	16	303	
Group Home	\$15	15	325	15	15	325	15	15	325	15	10	325	13	9	282	
Family/In-Home	\$15	14	325	15	12	325	15	12	325	15	12	325	15	12	325	

EASTERN REGION

RURAL COUNTIES

COUNTY NAMES: BRACKEN, FLEMING, LEWIS, MASON, ROBERTSON

BUFFALO TRACE AREA DEVELOPMENT DISTRICT #8

	Special Needs		PT	Infants		PT	Toddlers		PT	Pre-School		PT	School-Age		PT
	FT	PT		Max	FT		PT	Max		FT	PT		Max	FT	
	Center-based	\$13	16	282	13	12	282	13	12	282	13	12	282	13	14
Group Home	\$12	11	260	12	12	260	12	10	260	12	10	260	12	10	260
Family/In-Home	\$10	10	217	11	9	238	11	6	238	15	10	325	12	10	260

EASTERN REGION

RURAL COUNTIES

COUNTY NAMES: BATH, MENIFEE, MONTGOMERY, MORGAN, ROWAN

GATEWAY AREA DEVELOPMENT DISTRICT #9

	Special Needs		PT	Infants		PT	Toddlers		PT	Pre-School		PT	School-Age		PT
	FT	PT		Max	FT		PT	Max		FT	PT		Max	FT	
	Center-based	\$13	16	282	13	12	282	13	12	282	13	12	282	13	14
Group Home	\$12	10	260	12	12	260	12	10	260	12	10	260	12	10	260
Family/In-Home	\$10	9	217	11	9	238	11	6	238	15	10	325	12	10	260

ADMINISTRATIVE REGISTER - 316

EASTERN REGION
URBAN COUNTIES
COUNTY NAMES: BOYD, CARTER, GREENUP
FIVCO AREA DEVELOPMENT DISTRICT #10

	Special Needs		PT Max	Infants		PT Max	Toddlers		PT Max	Pre-School		PT Max	School-Age		PT Max
	FT	PT		FT	PT		FT	PT		FT	PT		FT	PT	
Center-based	\$14	16	303	14	12	303	13	12	282	13	12	282	13	14	282
Group Home	\$13	13	282	13	12	282	12	10	260	12	10	260	12	10	260
Family/In-Home	\$12	12	260	12	9	260	11	8	238	11	10	238	11	10	238

EASTERN REGION
RURAL COUNTIES
COUNTY NAMES: ELLIOTT, LAWRENCE
FIVCO AREA DEVELOPMENT DISTRICT #10

	Special Needs		PT Max	Infants		PT Max	Toddlers		PT Max	Pre-School		PT Max	School-Age		PT Max
	FT	PT		FT	PT		FT	PT		FT	PT		FT	PT	
Center-based	\$14	16	303	14	12	303	13	12	282	13	12	282	13	14	282
Group Home	\$13	13	282	13	12	282	12	10	260	12	10	260	12	10	260
Family/In-Home	\$12	12	260	12	9	260	11	8	238	15	10	325	12	10	260

EASTERN REGION
RURAL COUNTIES
COUNTY NAMES: FLOYD, JOHNSON, MAGOFFIN, MARTIN, PIKE
BIG SANDY AREA DEVELOPMENT DISTRICT #11

	Special Needs		PT Max	Infants		PT Max	Toddlers		PT Max	Pre-School		PT Max	School-Age		PT Max
	FT	PT		FT	PT		FT	PT		FT	PT		FT	PT	
Center-based	\$13	16	282	13	12	282	13	12	282	13	12	282	13	14	282
Group Home	\$12	11	260	12	12	260	12	10	260	12	10	260	12	10	260
Family/In-home	\$10	10	217	11	9	238	11	7	238	15	10	325	12	10	260

EASTERN REGION
RURAL COUNTIES
COUNTY NAMES: BREATHITT, KNOTT, LEE, LESLIE, LETCHER, OWSLEY, PERRY, WOLFE
KENTUCKY RIVER AREA DEVELOPMENT DISTRICT #12

	Special Needs		PT Max	Infants		PT Max	Toddlers		PT Max	Pre-School		PT Max	School-Age		PT Max
	FT	PT		FT	PT		FT	PT		FT	PT		FT	PT	
Center-based	\$13	16	282	13	12	282	13	12	282	13	12	282	13	14	282
Group Home	\$12	12	260	12	12	260	12	10	260	12	10	260	12	10	260
Family/In-Home	\$11	11	238	11	9	238	11	8	238	15	10	325	12	10	260

EASTERN REGION
RURAL COUNTIES
COUNTY NAMES: BELL, CLAY, HARLAN, JACKSON, KNOX, LAUREL, ROCKCASTLE, WHITLEY
CUMBERLAND VALLEY AREA DEVELOPMENT DISTRICT #13

	Special Needs		PT Max	Infants		PT Max	Toddlers		PT Max	Pre-School		PT Max	School-Age		PT Max
	FT	PT		FT	PT		FT	PT		FT	PT		FT	PT	
Center-based	\$13	16	282	13	12	282	13	12	282	13	12	282	13	14	282
Group Home	\$12	10	260	12	12	260	12	10	260	12	10	260	12	10	260
Family/In-Home	\$10	9	217	11	9	238	11	6	238	15	10	325	12	10	260

ADMINISTRATIVE REGISTER - 317

CENTRAL REGION

RURAL COUNTIES

COUNTY NAMES: ADAIR, CASEY, CLINTON, CUMBERLAND, GREEN, MCCREARY, PULASKI, RUSSELL, TAYLOR, WAYNE
LAKE CUMBERLAND AREA DEVELOPMENT DISTRICT #14

	Special Needs		PT	Infants		PT	Toddlers		PT	Pre-School		PT	School-Age		PT
	FT	PT		Max	FT		PT	Max		FT	PT		Max	FT	
	Center-based	\$14	11	303	16	8	347	16	14	347	15	13	325	14	16
Group Home	\$14	14	303	15	15	325	15	15	325	15	8	325	13	8	282
Family/In-Home	\$15	12	325	15	12	325	15	12	325	15	12	325	15	12	325

CENTRAL REGION

URBAN COUNTIES

COUNTY NAMES: BOURBON, CLARK, FAYETTE, FRANKLIN, JESSAMINE, MADISON, SCOTT, WOODFORD
BLUEGRASS AREA DEVELOPMENT DISTRICT #15

	Special Needs		PT	Infants		PT	Toddlers		PT	Pre-School		PT	School-Age		PT
	FT	PT		Max	FT		PT	Max		FT	PT		Max	FT	
	Center-based	\$14	14	303	14	11	303	13	14	282	13	14	282	13	16
Group Home	\$14	14	303	13	11	282	12	11	260	12	9	260	12	9	260
Family/In-Home	\$15	12	325	13	12	282	11	12	238	11	12	238	11	12	238

CENTRAL REGION

RURAL COUNTIES

COUNTY NAMES: ANDERSON, BOYLE, ESTILL, GARRARD, HARRISON, LINCOLN, MERCER, NICHOLAS, POWELL
BLUEGRASS AREA DEVELOPMENT DISTRICT #15

	Special Needs			PT		Infants		PT	Toddlers		PT	Pre-School		PT	School-Age		PT	
	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max	FT	PT	Max
Center-based	\$14	14	303	16	11	347	16	14	347	15	14	325	14	16	303			
Group Home	\$14	14	303	15	15	325	15	15	325	15	9	325	13	9	282			
Family/In-Home	\$15	12	325	15	12	325	12	12	260	15	12	325	15	12	325			

(7) ~~Child care payments shall be limited as follows:~~

~~(a) Six (6) semesters (three (3) years) for a two (2) year post-secondary program;~~

~~(b) Eight (8) semesters (nine (9) with good cause) for a four (4) year postsecondary program with an additional semester when:~~

~~1. If only one (1) additional semester is needed to complete the degree requirements; and~~

~~2. If satisfactory progress is being made;~~

~~(c) No restrictions on other education and training activities.~~

~~(8) These limits apply to both full time and part time enrollment.~~

~~(9) In preemployment or precomponent, if necessary to guarantee that the child care arrangement shall not be lost, child care payments shall be provided for a period of:~~

~~(a) Up to two (2) weeks prior to the scheduled start of employment or component activity; and~~

~~(b) Up to one (1) month during a break in employment or component activity if subsequent employment or component activity is scheduled to begin within that period.~~

~~(8) [(44)] Child care payments shall not be made if:~~

~~(a) If only one (1) parent is participating; and~~

~~(b) The nonparticipating parent is not incapacitated.~~

~~(c) The nonparticipating parent is employed and child care is allowed as a deduction as outlined in administrative regulation 904 KAR 2:016.~~

~~(9) [(44)] When child care expenses are paid from another source the agency shall pay:~~

~~(a) Only the difference between the total child care and what the other source is paying; and~~

~~(b) Up to the maximum daily payment rate per child per provider.~~

~~(10) After October 1, 1997, child care payments shall be paid according to 905 KAR 2:150.~~

Section 5. [6-] Authorization of Child Care Payment. (1) Child care payments shall be authorized upon the receipt of appropriate verification of the cost of care.

(2) Departmental forms required for verification are incorporated by reference in this administrative regulation.

(3) Payments shall be authorized in accordance with 904 KAR 2:050E.

Section 6. [7-] Restrictions on Authorization of Child Care Payments. Payment shall not be made if:

(1) Verification is not returned by the end of the month following the month in which the cost was incurred; or

(2) The participant is penalized [sanctioned] for noncompliance with Kentucky Works [JOBS] activities, as specified in 904 KAR 2:370E; or

~~(3) A fair hearing decision is pending on an issue of noncompliance with JOBS.~~

Section 7. [8-] Transportation Payments in Kentucky Works [JOBS] components. Transportation reimbursement shall be paid in the following situations:

(1) Precomponent;

(2) Component preparation;

(3) Component participation, with the exception of OJT and unsubsidized employment, while the Kentucky Transitional Assistance Program [AFDC] case remains active. Transportation expenses for individuals in unsubsidized employment are covered by the work expense standard deduction as defined in 904 KAR 2:016E;

(4) Transitional extension; or

(5) On-the-job training (OJT) participants discontinued from Kentucky Transitional Assistance Program [AFDC], until the end of

the component placement.

~~[Section 9. Transportation Payments in Self-initiated Activities. (1) Transportation shall be provided in the same situations as in JOBS components, with the exceptions of:~~

- ~~(a) Transitional extension;~~
- ~~(b) OJT participants discontinued due to increased earnings or hours of employment;~~
- ~~(c) Component preparation; and~~
- ~~(d) Precomponent, for persons waiting to enter self-initiated activities for the first time.~~
- ~~(2) Reimbursement shall be paid only for approved self-initiated activities.]~~

Section 8. [40.] Transportation Payment Amount and Authorization. (1) If free transportation is unavailable which meets the needs of the recipient, transportation shall be provided for individuals participating in approved Kentucky Works [JOBS] activities through:

(a) Arrangement by the state Kentucky Transitional Assistance Program [AFDC] agency or contractor; and

(b) ~~[Direct payments to the individual of three (3) dollars per day]~~ After receipt of [appropriate] verification a direct payment to the individual shall be made ~~[through departmental forms or]~~ through the System Tracking for Employability Program (STEP), as follows:

1. If low-cost transportation is available and meets the needs of the individual, actual transportation costs shall be paid up to the maximum payment rates listed in subparagraph 2 of this paragraph; or

2. If free or low-cost transportation that meets the needs of the individual is unavailable, a direct payment shall be made to the individual per month as follows:

a. Nine (9) dollars for less than four (4) days per month;

b. Thirty-five (35) dollars for four (4) to sixteen (16) days per month; or

c. Sixty (60) dollars for seventeen (17) or more days per month.

(c) For a special circumstance, as determined by the cabinet, when actual transportation costs exceed the maximum payment rates in paragraph (b) of this subsection, if approved by the cabinet, the actual negotiated rate not to exceed \$100 per month may be paid.

(d) ~~[JOBS Automated System (JAS)]~~ Payments shall be made as specified in 904 KAR 2:050E.

(2) Transportation payments shall be limited in the same manner as child care payments, ~~[as described in Section 5(7) of this administrative regulation].~~

(3) In precomponent, if necessary to guarantee that the transportation arrangement shall not be lost, transportation payments shall be provided for the period of:

(a) Up to two (2) weeks prior to the scheduled start of component activity; and

(b) Up to one (1) month during a break in component activity if subsequent component activity is scheduled to begin within that period.

Section 9. [44.] Restrictions on Authorization of Transportation Payments. Payments shall not be made if:

(1) Appropriate verification is not returned by the end of the month prior to [following] the month in which the cost will be [was] incurred;

(2) The participant is penalized ~~[sanctioned]~~ for noncompliance with Kentucky Works [JOBS] activities, as specified in 904 KAR 2:370E. ~~[; or]~~

~~(3) A fair hearing decision is pending on an issue of noncompliance with JOBS.]~~

Section 10. [42.] Other Supportive Services in Kentucky Works [JOBS] Components. (1) Nonrecurring services shall be provided if necessary for participation in the approved Kentucky Works [JOBS]

activities of:

(a) Component preparation;

(b) Component participation, except for expenses included in the work expense standard deduction for participants in OJT and unsubsidized employment while the Kentucky Transitional Assistance Program [AFDC] case remains active;

(c) Transitional extension; or

(d) OJT participants discontinued from Kentucky Transitional Assistance Program [AFDC], until the end of the component placement.

(2) Nonrecurring [These] services shall be approved by the case manager as defined in 904 KAR 2:370E.

(3) Items and services that shall be approved are the purchase of:

(a) ~~[Remedial health care items or services not covered under the Medicaid Program;~~

~~(b)]~~ Uniforms required by education or training provider;

(b) ~~[(e)]~~ Suitable clothing for a job interview;

(c) ~~[(d)]~~ School supplies other than books;

(d) ~~[(e)]~~ Fees to obtain a license;

(e) ~~[(f)]~~ Timepieces that are necessary for training;

(f) ~~[(g)]~~ The cost to have a photo identification made in order to take a GED test;

(g) ~~[(h)]~~ The cost of a criminal records check fee if the provider requires verification; or

(h) ~~[(i)]~~ Driver's education.

~~[Section 13. Other Supportive Services in Approved Self-initiated Activities. Nonrecurring services shall be provided in the same situations as in JOBS components, with the following exceptions:~~

~~(1) Transitional extension;~~

~~(2) Discontinued OJT participants; or~~

~~(3) Component preparation.]~~

Section 11. [44.] Limitations on Other Supportive Services. (1) A cumulative limit of \$200 ~~[\$300]~~ in a twelve (12) month period, beginning with the first day of the month in which the appropriate verification form is issued, shall be in effect for any participant in these approved Kentucky Works [JOBS] activities:

(a) Component preparation;

(b) Component-related except for unsubsidized employment;

(c) Transitional extension; or

(d) Discontinued OJT participants.

(2) Other supportive services shall be limited in the same manner as child care payments, ~~[as described in Section 5(7) of this administrative regulation].~~

Section 12. Car Repairs. (1) Car repairs shall be provided if necessary for participation in the approved Kentucky Works activities of:

(a) Component preparation;

(b) Component participation, including unsubsidized employment while the Kentucky Transitional Assistance Program case remains active;

(c) Transitional extension; or

(d) OJT participants discontinued from Kentucky Transitional Assistance Program, until the end of the component placement.

(2) Car repair expenses shall meet the following criteria to be considered for payment:

(a) Car repair which makes the car functional;

(b) Property taxes on vehicle;

(c) Vehicle registration;

(d) Licenses fees; and

(e) Three (3) months of liability insurance on vehicle.

(3) All car repair expenditures listed in subsection (2) of this section shall require:

(a) An estimate of the cost; and

(b) Approval by the cabinet.

(4) All auto repair work shall be completed by garages with which the cabinet has an agreement.

(5) Prior to approval of car repair expenditures, the cabinet shall verify the participant owns the vehicle.

(6) The payment maximum for car repair expenditures shall be up to a maximum of \$300 per year per eligible family.

Section 13. Preemployment and Employment Supportive Services. (1) An active Kentucky Transitional Assistance Program parent or other adult included as a specified relative pursuant to Section 10 of 904 KAR 2:006E may request preemployment and employment supportive services to enable the individual to accept a new job or retain an existing one if the individual:

(a) Has accepted employment; or

(b) Is employed.

(2) Preemployment and employment supportive services shall meet the following criteria to be considered for payment authorization:

(a) Preemployment and employment supportive services shall include the following costs:

1. Timepieces which include watches and alarm clocks;

2. Tools required for employment;

3. Licensing fees which include:

a. Exam costs required to obtain a professional license or certificate; or

b. Driver's license fee;

4. Kentucky State Police criminal record check if required by the employer;

5. Uniforms or specialized clothing particular to a service, profession or company excluding clothing used for everyday wear at work or elsewhere;

6. GED test fee if the following criteria are met:

a. The individual does not have a high school diploma or GED and the individual is expected to pass the test;

b. The test is required as a condition of employment; and

c. The fee is paid directly to the test agency with no reimbursement allowed to the individual.

7. Drug screening test if:

a. Required by a potential employer; and

b. Paid directly to the potential employer with no reimbursements allowed to an individual who has paid his own test fee.

(b) Except when an item is required as a condition of being hired by the employer, the parent or other adult shall be hired by an employer and a start date of employment provided;

(c) A payment may be authorized for an eligible parent or other adult included as a specified relative pursuant to Section 10 of 904 KAR 2:006E even if the individual is not attending a Kentucky Works component or activity;

(d) Penalized and K-TAP ineligible adults are not eligible for preemployment and employment supportive services;

(e) A retroactive payment for preemployment and employment supportive services shall not be made for an item purchased by the penalized individual who later cures the penalty. After the parent or other adult cures the penalty, eligible expenses required to retain employment may be authorized.

(f) A medical service or item shall not be an allowable preemployment and employment supportive service.

(g) The payment maximum shall be \$200 per year per eligible parent or other adult included as a specified relative pursuant to Section 10 of 904 KAR 2:006E.

Section 14. [46-] Restrictions on Authorization of Supportive Service Payments. Payments shall not be made for the period during which:

(1) Verification is not returned by the service provider; or

(2) The participant is penalized ~~[sanctioned]~~ for noncompliance with Kentucky Works [JOBS] activities, as specified in 904 KAR

2:370E. ~~[or~~

~~(3) A fair hearing decision is pending on an issue of noncompliance with JOBS.]~~

Section 15. [46-] Child Care Recoupment. The following provisions apply to Kentucky Works [JOBS] child care ~~[supportive service]~~ overpayments:

(1) Necessary action shall be taken promptly by the department to correct and recoup any overpayments occurring on or after October 1, 1990 in a case:

(a) Of fraud;

(b) Involving a current recipient; and

(c) In which the overpayment would equal or exceed the cost of recovery.

(2) An overpayment shall be recovered through:

(a) Repayment by the individual to the cabinet; or

(b) Reduction in child care payments; or

(c) Reduction of Kentucky Transitional Assistance Program [AFDC] benefits only upon a voluntary request of the recipient family.

(3) Repayment by the individual shall allow the recipient family to retain, for any month, a reasonable amount of funds.

(4) Underpayments and overpayments may be offset against each other in adjusting incorrect payments.

Section 16. Hearings and Appeals. Applicants or recipients of benefits under programs described herein who are dissatisfied with any action or inaction on the part of the cabinet shall have the right to a hearing under 904 KAR 2:055E.

Section 17. Material Incorporated by Reference. (1) Forms necessary for verification of child care and supportive services payments in the Kentucky Works [JOBS] Program are incorporated effective July 14, 1997 ~~[December 1, 1993]~~. These forms include:

(a) PA-32, revised 8/97 ~~[4/93]~~;

(b) PA-33, revised 4/97 ~~[3/94]~~;

(c) PA-33N, revised 4/97 ~~[3/94]~~;

(d) PA-33.1, revised 6/91;

(e) PA-114, revised 4/97 ~~[4/93]~~; and

(f) PA-416, revised 4/97 ~~[4/93]~~.

(2) These forms may be inspected and copied at the Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

JOHN L. CLAYTON, Commissioner

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: July 7, 1997

FILED WITH LRC: July 14, 1997 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Marty Mason, Director

(1) Type and number of entities affected: The affected entities are families who apply for or receive supportive services for Kentucky Works under the Temporary Assistance for Needy Families (TANF) block grant program called Kentucky Transitional Assistance Program (K-TAP). The passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 created the Temporary Assistance for Needy Families (TANF) block grant program and has eliminated entitlement to the Aid to Families with Dependent Children (AFDC) program. In addition, this act has eliminated the Job Opportunities and Basic Skills (JOBS) program and supportive services provisions funded under Title IV-F. The funding to implement work requirements and supportive services provisions for participation in an approved Kentucky Works activity, for TANF block grant program, is now included in Title IV-A. In Kentucky the TANF block grant program to implement the work requirements and provide supportive services is called Kentucky Works. As of March 1997, there were a total of

63,739 basic AFDC cases and 2,458 AFDC-UP (unemployed parent) cases, for a total of 66,197 AFDC cases. Effective March 1997, there was approximately 48,123 adults in those cases. Adult K-TAP recipients are required to participate in the Kentucky Works Program unless the recipient meets exemption criteria delineated in the administrative regulation. Supportive services are provided to enable participation by K-TAP recipients who are in an approved Kentucky Works activity.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the publication of the notice of intent.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the publication of the notice of intent.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing cost (note any effects upon competition) for the: First year following implementation: The individuals who are applicants or recipients of K-TAP, who are required to participate in Kentucky Works provisions will not have any additional compliance, reporting or paperwork requirements due to complying with the requirements for receiving Kentucky Works child care and supportive services.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings to the agency: Transportation payments will change based on a monthly payment rate basis instead of a flat per day rate. Car repair expenses limited to \$300 will be added. Limitations on Other Supportive Services will be reduced from a cumulative limit of \$200 from \$300 in a twelve (12) month period. Preemployment and employment supportive services will be added to enable the individual to accept a new job or retain an existing one, limited to \$200 in a twelve (12) month period.

1. First year: The breakdown of costs and savings to the agency for the first year (SFY 1997) are listed below:

- a. Transportation for new cases (cost) - \$494,400
- b. Car repair (cost) - \$0
- c. Nonrecurring support services (cost) - \$0
- d. Preemployment and employment (cost) - \$0
- e. Child care for new cases (cost) - \$1,080,200
- f. Child care system (cost) - \$627,800
- g. Form revisions, printing and system form revisions (cost) - \$5,000
- h. Total for first year - \$2,207,400

2. Continuing cost or savings: The breakdown of cost to the agency for the second year (SFY 1998) are listed below:

- a. Transportation for new cases (cost) - \$5,400,000
- b. Car repair (cost) - \$300,000
- c. Nonrecurring support services (cost) - \$800,000
- d. Preemployment and employment (cost) - \$60,000
- e. Child care for new cases (cost) - \$2,306,000
- f. Child care system (cost) - \$2,000,000
- g. Form revisions, printing and system form revisions (cost) - \$0
- h. Total for second year - \$10,866,000

3. Additional factors increasing or decreasing cost:

Reporting and paperwork requirements: The state and federal expenditures do not include projections for the community and local involvement which will be critical to the success of this program.

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal funds and state funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising

from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: To be determined after the publication of the notice of intent.

(b) Kentucky: To be determined after the publication of the notice of intent.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered since the state is responsible under federal requirements to implement the work requirements and supportive services provisions for the block program funded under 42 USC 601 et seq.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation is needed to comply with the mandated work requirements found in 42 USC 601 et seq., and to implement the Kentucky Works program that replaces the JOBS program.

(b) State whether a harmful effect on environment and public health would result if not implemented: A detrimental effect on public health would result if this amendment is not implemented.

(c) If detrimental effect would result, explain detrimental effect: Public assistance benefits (including supportive services) received by needy Kentuckians may be jeopardized if Kentucky does not meet the mandates delineated in our Title IV-A State Plan as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. If public assistance benefits received by needy Kentuckians are jeopardized, these individuals would lose a source of support for their family including assistance for supportive services such as transportation and child care which enables the parent to remain employed.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through federal requirements.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 USC 601 et seq.

2. State compliance standards. KRS 205.200

3. Minimum or uniform standards contained in the federal mandate. None

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No

5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

STATEMENT OF EMERGENCY

904 KAR 2:370E

This emergency administrative regulation is needed to comply with the mandated requirements pursuant to the approved Title IV-A State Plan as required by 42 USC 601 et seq. and to conform with the provisions found in 904 KAR 2:006E and 2:016E. The passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 has eliminated entitlement to the Aid to Families with Dependent Children (AFDC) program and has created the Temporary Assistance for Needy Families block grant program, called the Kentucky Transitional Assistance Program (K-TAP) in Kentucky. The Cabinet for Families and Children is required to include the mandatory work provisions of 42 USC 601 et seq. in the Title IV-A State Plan.

References to Aid to Families with Dependent Children (AFDC) have been changed to Kentucky Transitional Assistance Program (K-TAP) to conform with the provisions in 904 KAR 2:006E and 2:016E. Job Opportunities and Basic Skills (JOBS) has been changed to Kentucky Works. The deadline imposed by the Department of Health and Human Services for the complete Title IV-A State Plan for implementation of the mandated requirements of the cabinet's Title IV-A block grant program was October 18, 1996. Therefore, in order to meet this deadline by the U.S. Department of Health and Human Services, this emergency administrative regulation must be placed in effect immediately in order to amend the requirements in 904 KAR 2:370. An ordinary administrative regulation would not allow sufficient time to meet the time frames. The emergency administrative regulation filed on March 27, 1997, was withdrawn and this substantially different emergency amendment to this administrative regulation promulgated. This emergency administrative regulation is substantially different from the withdrawn emergency administrative regulation because of the addition of wage supplementation as one (1) of the activities to be in compliance with program participation requirements for Kentucky Works. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
 VIOLA P. MILLER, Secretary

CABINET FOR FAMILIES AND CHILDREN
 Department for Social Insurance
 Division of Management and Development

904 KAR 2:370E. Technical requirements for Kentucky Works [job opportunities and basic skills].

RELATES TO: 42 USC 601 et seq. [45 CFR 250.0, 250.10, 250.11, 250.30, 250.32, 250.33, 250.34, 250.35, 250.36, 250.41, 250.43, 250.44, 250.45, 250.46, 250.48, 250.60, 250.61, 250.63]

STATUTORY AUTHORITY: KRS 194.050(1), 205.200(2), 42 USC 601 et seq., EO 96-862

EFFECTIVE: July 11, 1997

NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Social Insurance and its programs under the Cabinet for Families and Children. The Cabinet for Families and Children [Human Resources] has the responsibility under the provisions of KRS Chapter 205 to administer the assistance program of Aid to Families with Dependent Children, which is now called the Kentucky Transitional Assistance Program, the block grant program funded under 42 USC 601 et seq. [AFDC]. KRS 205.200(2) requires that the conditions of eligibility to receive [AFDC] money grants from the Kentucky Transitional Assistance Program be prescribed by administrative regulations in conformity with 42 USC 602 and federal regulations. This administrative regulation sets forth the technical requirements of the Kentucky Works [Job Opportunities and Basic Skills (JOBS)] Program participants as they relate to eligibility for receiving assistance from the Kentucky Transitional Assistance Program. [AFDC].

Section 1. Definitions. (1) "Assessment" means the ongoing evaluation of an individual's strengths and needs relative to achieving self-sufficiency; [educational and vocational potential.]

(2) "Cabinet" means the Cabinet for Families and Children; ["Barriers" are any hardships the individual shall overcome to participate in education, training or employment.]

(3) "Concerns" means a hardship the individual shall overcome to become employed and self-sufficient; ["Case manager" means the Department for Social Insurance (DSI) individual or contractor who:

(a) Aids the JOBS participant by brokering services for the participant;

(b) Identifies and resolves barriers to the extent possible; and
(c) Delivers JOBS related services to the participant.]

(4) "Conciliation" means [is] a process in which participation problems in the Kentucky Works [JOBS] Program can be resolved;

(5) "Kentucky Works" ["JOBS"] means a program which assists recipients of K-TAP [AFDC] in obtaining [the necessary education and training that will lead to] gainful employment and self-support;

(6) "Vocational educational training" means a training program which prepares the individual for employment. ["Target population" means that group composed of each individual who:

(a) Is receiving AFDC, and who has received AFDC for any thirty-six (36) of the preceding sixty (60) months;

(b) Makes application for AFDC and has received AFDC for any thirty-six (36) of the sixty (60) months immediately preceding the most recent month for which application has been made;

(c) Is a custodial parent under the age of twenty-four (24) who:
1. Has not completed a high school education and, at the time of application for AFDC, is not enrolled in high school or a high school equivalency course of instruction; or

2. Had little or no work experience in the preceding year; or

(d) Is a member of a family in which the youngest child is within two (2) years of being ineligible for AFDC because of age.]

Section 2. Program Participation. (1) [Exemptions.] All adult and teenage parent Kentucky Transitional Assistance Program [AFDC] recipients shall be [are] required to participate in the Kentucky Works [JOBS] Program [if the program is available in the county of residence] unless the recipient meets the exception criteria in Section 3 of this administrative regulation;

(2) All adult Kentucky Transitional Assistance Program recipients who do not meet the exception criteria in Section 3 of this administrative regulation shall be required to participate in the Kentucky Works Program as follows:

(a) For a one (1) parent household a minimum of twenty (20) hours per week shall be required in specific activities listed in paragraph (c) of this subsection;

(b) For a two (2) parent household:
1. A minimum of thirty-five (35) hours per week shall be required for one (1) parent with at least thirty (30) hours of the required thirty-five (35) hours per week in specific activities listed in paragraph (c) of this subsection; and

2. A minimum of twenty (20) hours per week shall be required for one (1) parent in a two (2) parent household with all twenty (20) hours per week in specific activities listed in paragraph (c) 1, 2, 3, 4, and 6 of this subsection if:

a. The family receives child care assistance; and

b. An adult in the family is not disabled pursuant to 904 KAR 2:006E; or

c. An adult is not needed to care for a child in the home with a severe disability pursuant to 904 KAR 2:006E.

(c) Specific activities to be in compliance with program participation requirements in Kentucky shall include:

1. Unsubsidized employment;

2. Subsidized employment;

3. Work experience;

4. On-the-job training;

5. Job search and job readiness assistance;

6. Community service;

7. Vocational educational training not to exceed twelve (12) months and after that time coupled with work or work activities for the amount of hours per week specified in paragraphs (a) and (b) of this subsection;

8. Full-time enrollment, as defined by the school, in post secondary education not to exceed twelve (12) months and after that time coupled with work or work activities for the amount of hours per week specified in paragraphs (a) and (b) of this subsection;

9. Satisfactory attendance at secondary school or equivalent in

the case of a recipient who has not completed secondary school or equivalent coupled with work or work activities in the amount of hours per week specified in paragraphs (a) and (b) of this subsection;

10. Provision of child care services to an individual participating in community service;

11. Based on the findings of the assessment, the agency or cabinet designee and the participant may determine placement in a work preparation activity which includes:

- a. Domestic violence counseling;
- b. Life skills training;
- c. A substance abuse program;
- d. Mental health counseling;
- e. Vocational rehabilitation;
- f. Literacy;
- g. Adult education;
- h. Wage supplementation; and
- i. Participation in work programs approved by the cabinet.

Section 3. Exceptions to Program Participation. (1) A Kentucky Transitional Assistance Program recipient who is a single head of household, who has not obtained a high school diploma or a graduate equivalency diploma and has not attained twenty (20) years of age shall be deemed to be engaged in work for any month in a fiscal year if the recipient:

(a) Maintains satisfactory attendance at a secondary school or the equivalent during the month; or

(b) Participates in education that is directly related to employment for at least twenty (20) hours a week;

(2)(a) An adult Kentucky Transitional Assistance Program recipient shall not be required to comply with program participation requirements for up to twelve (12) months if the adult is an individual caring for a child who has not attained twelve (12) months of age;

(b) The twelve (12) months of exemption from work participation requirements shall be a lifetime exemption for the adult and may be:

- 1. Consecutive; or
- 2. Cumulative.

(3) For a Kentucky Transitional Assistance Program recipient where compliance with program participation would make it difficult to escape domestic violence or unfairly penalize the individual who is or has been victimized by domestic violence or who is at risk of further domestic violence, as determined by the cabinet, compliance shall not be mandated. [:

(1) Is a child who:

(a) Is under age sixteen (16); or

(b) Attends, full time, an elementary, secondary, vocational or technical school (unless he was enrolled in school through the JOBS Program);

(2) Is ill and the illness or injury is serious enough to temporarily prevent entry into employment or training;

(3) Is incapacitated to the extent that the physical or mental impairment would prevent the recipient from participating in the JOBS Program. This may include a period of recuperation after childbirth if prescribed by a woman's physician;

(4) Is sixty (60) years old or older;

(5) Resides in a county which offers the JOBS Program but in a location in which travel time to the JOBS activity would exceed two (2) hours round trip by reasonably available public or private transportation, exclusive of time necessary to transport children to and from a child care facility;

(6) Is needed in the home because another member of the household requires the individual's presence due to illness or incapacity;

(7) Is working at least thirty (30) hours per week prior to determination of JOBS status;

(8) Is pregnant and the child is expected to be born within the following six (6) month period;

(9) Is the parent or other relative who is personally providing care

for a child under age three (3), except as specified in Section 5(2) of this administrative regulation;

(10) Is a full-time Volunteer in Service to America (VISTA) volunteer.

(11) Is the parent age twenty (20) years or older or other relative personally providing care for a child under six (6) years of age unless:

(a) The agency assures that child care will be guaranteed; and

(b) The state agency guarantees that required program participation will not exceed twenty (20) hours per week.

Section 3. Volunteers. All persons in active JOBS counties as specified in Section 2 of this administrative regulation may volunteer to participate in the JOBS Program.

(1) The DSI shall give first priority for JOBS services to volunteers within the target population to be served, as described in Section 4 of this administrative regulation.

(2) A volunteer who is exempt, as specified in Section 2 of this administrative regulation, and who stops participating without good cause shall lose priority status for JOBS services if he volunteers at a later time.

(3) A volunteer who is not exempt and who stops participating without good cause shall be subject to sanctions, as specified in Section 10 of this administrative regulation.

Section 4. Components. With the exception of the component described in subsection (8) of this section, all JOBS counties shall offer the following services and activities:

(1) Education below the postsecondary level shall include:

(a) High school education or education designed to prepare a person to qualify for a high school equivalency certificate;

(b) Basic and remedial education that shall provide an individual with a basic literacy level, equivalent to at least grade 8.9; and

(c) Education in English proficiency to allow employment commensurate with his employment goal for an individual who is not sufficiently competent to:

- 1. Understand;
- 2. Speak;
- 3. Read; or
- 4. Write the English language.

(2) Job skills training which includes vocational training for a participant in technical job skills and equivalent knowledge and abilities in a specific occupational area.

(3) Job readiness activities that help prepare a participant for work by familiarizing him with workplace expectations, attitudes and appropriate behavior.

(4) Job development and job placement activities for soliciting public and private employers' job openings, marketing participants, and securing job interviews for a participant.

(5) Job search which provides group and individual assistance and training with job seeking activities.

(a) Job search shall be provided in a group setting where a participant is taught job seeking skills, and may include a phone bank from which he contacts potential employers;

(b) Individual job search shall be offered as needed to provide on a one to one basis:

- 1. Counseling;
- 2. Information;
- 3. Dissemination; and
- 4. Support;

(c) Participation in the job search component shall not exceed eight (8) weeks in any period of twelve (12) consecutive months unless it is required as part of another educational, training, or employment component designed to improve the individual's employment prospects.

(6) On the job training (OJT) in which a JOBS participant is hired by a private or public employer and receives job training or skills essential to the full and adequate performance of that job.

(a) A participant in OJT shall be compensated by the employer at the same rate as a similarly situated employee or trainee;

(b) The wage shall be subsidized through payments to the employer for OJT, not to exceed an average of fifty (50) percent of the wages paid to the participant during the training;

(c) At the conclusion of the OJT, the participant shall be retained as a regular employee.

(7) Community Work Experience Program (CWEP) which provides unpaid work experience and training in nonprofit organizations to assist a participant to move promptly into regular public or private employment.

(a) A CWEP assignment shall be limited to projects which serve a useful public purpose in a field such as:

1. Health;
2. Social service;
3. Environmental protection;
4. Education;
5. Urban and rural development;
6. Welfare;
7. Recreation;
8. Public facilities;
9. Public safety; and
10. Day care;

(b) The maximum number of hours of participation shall be determined by dividing the family's monthly AFDC grant amount by the greater of the federal or state minimum wage;

(c) The agency shall reassess and revise, if necessary, the individual's employability plan:

1. After each six (6) months of CWEP participation; and
2. At the conclusion of participation in the component.

(d) After an individual has been assigned to CWEP for nine (9) months, the individual shall not be required to continue in that assignment unless the maximum number of hours of participation is no greater than the family's grant divided by the highest of:

1. Federal minimum wage;
2. State minimum wage; or
3. The rate of pay for an individual employed in the same or similar occupations by the same employer at the same site.

(8) Alternative Work Experience Program (AWEP) which provides unpaid work experience and training to assist a participant to move promptly into regular public or private employment.

(a) An AWEP assignment shall be made with for profit entities.

(b) AWEP placements shall be developed and monitored by the Department for Social Insurance or contracting agencies.

(c) Placements shall be made in conjunction with the participant's assessment and employability development plan to ensure that the placement meets the participant's training needs.

(d) The AWEP component shall not be mandatory in every JOBS county.

(e) AWEP participants are required to participate a minimum of twenty (20) hours per week.

(f) The agency shall reassess and revise, if necessary, the individual's employability plan at the conclusion of participation in the component.

(9) Other work experience program (OWEP) which provides unpaid work experience and training in nonprofit organizations to assist a participant to move promptly into regular public or private employment.

(a) An OWEP assignment shall be limited to projects which serve a useful public purpose in a field such as:

1. Health;
2. Social service;
3. Environmental protection;
4. Education;
5. Urban and rural development;
6. Welfare;
7. Recreation;

8. Public facilities;

9. Public safety; and

10. Day care;

(b) OWEP placements shall be developed and monitored by the Department for Social Insurance or contracting agencies;

(c) Placements shall be made in conjunction with the participant's assessment and employability development plan to ensure that the placement meets the participant's training needs;

(d) OWEP participants shall be required to participate a minimum of twenty (20) hours per week;

(e) The agency shall reassess and revise if necessary, the individual's employability plan at the conclusion of participation in the component.

(10) Post secondary education may be provided if:

(a) The occupational assessment indicates that the participant has the aptitude to perform a specific job for which this education and training is required;

(b) The participant has or is capable of achieving the basic literacy skills required by the occupation; and

(c) Jobs are available in the specific occupation for which education and training is needed.]

Section 4. Program [5-JOBS] Participation Requirements. (1) Assessment.

(a) [When an AFDC recipient has been identified as a JOBS participant, the individual shall be referred to a JOBS case manager;

(b)] The cabinet or another entity designated by the cabinet [case manager] shall make an assessment of the individual's employability;

(b) [(c)] Other agencies shall [will] assist in the assessment process as needed;

(c) [(d)] The assessment shall include:

1. Consideration of basic skills; [work skills;]
2. Occupational skills; and
3. Concerns and other relevant factors. [barriers;

(c) The assessment shall be based on:

1. Education, child care and other supportive service needs;
2. The individual's proficiencies, skills deficiencies, and prior work experience;
3. The needs of the family of the participant; and
4. Any other relevant factors.]

(2) The self-sufficiency [Employability] plan. Based on the findings of the assessment, the agency or cabinet designee and participant shall jointly develop a self-sufficiency [an employability] plan by completing the Transitional Assistance Agreement. This plan shall contain:

- (a) An employment goal for the participant;
- (b) Services to be provided by the agency (including child care);
- (c) [JOBS] Activities to be undertaken by the recipient to achieve the employment goal; and
- (d) Other needs of the family.

[(3) Special participation requirements for education.

(a) An AFDC parent under age twenty (20) who resides in a JOBS county shall be required to participate in educational activities if:

1. The parent is not otherwise exempt; and
2. The parent lacks a high school diploma or has basic skills in reading or math below the 8.0 grade level.

(b) The agency may require a parent aged eighteen (18) or nineteen (19) to participate in work or training activities instead of education if:

1. The parent fails to make good progress in successfully completing educational activities; or
2. Prior to any assignment of the individual to educational activities it is determined, based on an educational assessment and the employment goal established in the individual's employability plan, that participation in education activities is inappropriate for the parent.

(c) For purposes of this requirement, the exemption contained at

~~Section 2(9) of this administrative regulation shall not qualify the participant for exemption from JOBS activities.~~

~~Section 6. Self-initiated JOBS Activities. The agency shall consider an individual self-initiated if the definition specified in 004 KAR 2:017 is met. This shall include the following provisions:~~

~~(1) These individuals shall be in good standing at an institution of higher education or school or other entity offering a course of vocational or technical training.~~

~~(2) Enrollments in postsecondary programs shall be full-time as defined by the education or training institution.~~

~~(3) Both exempt and nonexempt individuals may be approved for self-initiated education or training for their JOBS activity.~~

~~(4) The participant shall be attending:~~

~~(a) A JTPA-funded training program; or~~

~~(b) A public source or private institution that is:~~

~~1. Licensed by the Kentucky Board for Proprietary Education; or~~

~~2. Recognized by the appropriate regulatory agency or licensing body for the state in which the training is located; or~~

~~(c) A program which will qualify the participant for a recognized occupation; or~~

~~(d) Other education or training which would otherwise be an approved JOBS activity unless the participant resides in a JOBS county and is enrolled less than twenty (20) hours in:~~

~~1. GED;~~

~~2. Adult basic education;~~

~~3. Literacy; or~~

~~4. Other educational activities which could lead to employment.~~

~~Section 7. Good and Satisfactory Progress. (1) Each participant in an education or training component shall meet good and satisfactory progress requirements.~~

~~(2) Good and satisfactory progress criteria for all JOBS educational activities and approved self-initiated education is established by the educational institution.~~

~~(3) Good and satisfactory progress shall be measured and reported to the DSI at the following intervals:~~

~~(a) Literacy, adult basic education, or general educational development. Good and satisfactory progress is measured at intervals determined by the educational providers.~~

~~(b) High school. Good and satisfactory progress shall be measured at the end of each semester or quarter.~~

~~(c) Vocational school. Good and satisfactory progress shall be measured at regularly scheduled intervals, as defined by the institution.~~

~~(d) Proprietary school. Good and satisfactory progress shall be measured at the end of each regularly scheduled grading period as defined by the institution, not to exceed a twelve (12) month period.~~

~~(e) College. Good and satisfactory progress shall be measured at the end of a semester or quarter.~~

~~(f) JTPA funded training. Good and satisfactory progress shall be measured at intervals determined by the providers.~~

~~Section 5. [8-] Conciliation. (1) Conciliation shall be conducted:~~

~~(a) At the request of a Kentucky Works [JOBS] participant;~~

~~(b) At the request of a service [component] provider; or~~

~~(c) When a situation is identified which could result in a penalty [sanction] (as specified in Section 7 [40] of this administrative regulation).~~

~~(2) The conciliation shall be conducted by the cabinet or contractor:~~

~~(a) The DSI;~~

~~(b) The DES; or~~

~~(c) Both agencies jointly.~~

~~(a) [4-] During conciliation, the agency shall determine if additional services are needed to assist with Kentucky Works [JOBS] participation.~~

~~(b) [2-] Participation shall be monitored for fifteen (15) days following the issuance of form KW [JOBS]-204.~~

~~(c) [3-] The fifteen (15) day period may be extended for an additional fifteen (15) days, if necessary.~~

~~(3) At the conclusion of the conciliation period, the participant shall be notified in writing of the results of the conciliation.~~

~~Section 6. Excused from Penalties. [9- Good Cause.] (1) A K-TAP recipient shall be excused from penalties for failure to comply with the Kentucky Works Program, as specified in Section 7 of this administrative regulation, if one (1) of the following good cause criteria is met: [Good cause for noncompliance in the JOBS Program or refusal to accept employment shall be found if:]~~

~~(a) The individual is a single custodial parent caring [participant is personally providing care] for a child under age six (6) and child care is unavailable, as determined by the cabinet; [employment or JOBS participation would require the individual to work more than twenty (20) hours per week;]~~

~~(b) Dependent care is:~~

~~1. Not available for a dependent child;~~

~~2-] not available for any incapacitated individual living in the same household as a dependent child;~~

~~[3- Not available or nonreimbursable for a nondependent child over age six (6);]~~

~~(c) [The agency determines that employment would result in a net loss of cash income.~~

~~1. The family's gross income less necessary actual work-related expenses is less than the cash assistance the individual was receiving at the time the offer of employment was made; and~~

~~2. Child care costs exceeding the child care disregard shall be considered in the determination;~~

~~(d) The individual is unable to engage in employment or training for mental or physical reasons as verified by the cabinet; [including participation in a drug and alcohol rehabilitation program;~~

~~(e) Unavailability of transportation (including unavailability due to costs which exceed the reimbursement) with no readily accessible alternative means of transportation available;~~

~~(f) Travel time to the work site or JOBS component site exceeds two (2) hours round trip daily;~~

~~(d) [(g)] Illness of another household member requiring the presence of the participant as documented by medical evidence or by reliable information from other sources as verified by the cabinet;~~

~~(e) [(h)] The participant is temporarily incarcerated or institutionalized for thirty (30) days or less;~~

~~(f) [(i)] The agency determines there is discrimination by an employer and a formal complaint has been filed based on:~~

~~1. Age;~~

~~2. Race;~~

~~3. Sex;~~

~~4. Color;~~

~~5. Disability;~~

~~6. Religious beliefs;~~

~~7. National origin; or~~

~~8. Political beliefs;~~

~~(g) [(j)] Work demands or conditions render continued employment unreasonable, such as:~~

~~1. Consistently not being paid on schedule; or~~

~~2. The presence of a risk to the individual's health or safety;~~

~~(h) [(k)] Wage rates are decreased subsequent to acceptance of employment;~~

~~(i) [(l)] The participant accepts a better job which, because of circumstances beyond the control of the recipient, does not materialize. [;~~

~~(m) A household emergency occurs, such as:~~

~~1. Death of a member of the immediate family;~~

~~2. Entry into a spouse abuse center;~~

~~3. Natural disaster;~~

4. Court appearance;
 5. Victim of crime; or
 6. Flooded basement;
 - (n) The participant receives a temporary military assignment;
 - (o) The participant leaves employment in an attempt to improve skills, become self-sufficient and leave the AFDC rolls;
 - (p) The participant is enrolled in a component activity which is not scheduled for the entire month, such as:
 1. Summer school break; or
 2. July break for adult education providers;
 - (q) The participant is employed and receiving wages for thirty (30) or more hours per week.
- (2) The duration of good cause criteria may vary according to individual circumstances.

Section 7. Penalties. ~~[10. Sanctions.]~~ (1) When a Kentucky Transitional Assistance Program ~~[nonexempt AFDC]~~ recipient fails to comply with the requirements of the Kentucky Works [JOBS] Program, he shall be subject to Kentucky Works and Kentucky Transitional Assistance Program penalties. ~~[JOBS and AFDC sanctions.]~~ Failure to comply shall be found when the participant:

(a) Fails without good cause, pursuant to Section 6 of this administrative regulation, to participate in required activities, including ~~[but not limited to]:~~

1. An interview;
2. An assessment; or
3. Self-sufficiency ~~[Employability]~~ plan development including completion of the Transitional Assessment Agreement, KW-202;

(b) Fails without good cause, pursuant to Section 6 of this administrative regulation, to participate in the program activities as defined in the Transitional Assessment Agreement, KW-202; or

(c) Refuses without good cause, pursuant to Section 6 of this administrative regulation, to accept employment; ~~[or~~

~~(d) Terminates employment or reduces earnings without good cause.]~~

(2)(a) A K-TAP recipient who fails to comply with the Kentucky Works Program requirements, ~~[A person who has failed to comply]~~ without good cause pursuant to Section 6 of this administrative regulation, shall be penalized by reducing the amount of the assistance otherwise payable to the benefit group on a pro rata basis;

(b) The penalty shall continue to be applied until the participant complies with program requirements. ~~[sanctioned, as follows:~~

- (a) The participant is excluded from JOBS activities and services:
 1. For the first failure to comply, until the failure to comply ceases;
 2. For the second failure to comply, until the failure to comply ceases, or three (3) months, whichever is longer; and
 3. For any subsequent failure to comply, until the failure to comply ceases, or six (6) months, whichever is longer.

(b) In determining the amount of the AFDC grant, the agency shall not take into account the needs of the sanctioned individual, beginning with the first administratively feasible month after JOBS sanctions begin.

(c) In a case based on unemployment, the agency shall not take into account the needs of the second parent, unless the second parent:

1. Is exempt for reasons other than those in Section 2(6), (9) and (11) of this administrative regulation;
2. Is participating; or
3. Has volunteered to participate in JOBS.

(d) A sanctioned individual shall participate in a designated activity for two (2) weeks before the failure to comply is considered to have ceased. At that time, the sanctions shall be terminated.]

Section 8. Hearings and Appeals. Applicants or recipients of benefits under programs described herein who are dissatisfied with any action or inaction on the part of the cabinet shall have the right to a hearing under 904 KAR 2:055E.

Section 9. ~~[14.]~~ Material Incorporated by Reference. (1) Forms necessary for participation in the Kentucky Works [JOBS] Program are being incorporated effective July 14, 1997 ~~[May 1, 1993]~~. These forms include:

- (a) [PA-33C, revised 1/92;
- ~~(b)] PA-33D, revised 8/97 [1/92];~~
- (b) [(e)] PA-218A, revised 4/97 [7/94];
- (c) [(d)] PA-219, revised 5/97 [7/94];
- (d) KW [(e)-JOBS]-105, revised 4/97 [6/94];
- (e) KW-200, issued 4/97;
- (f) KW [JOBS]-201, revised 1/91;
- (g) JOBS]-202, revised 4/97 [10/94];
- (g) KW [(h)-JOBS]-204, revised 5/97 [1/94];
- (h) KW [(i)-JOBS]-205, revised 5/97 [8/94];
- (i) KW-211, issued 5/97;
- (j) KW [JOBS]-241A, revised 5/97 [6/94];
- (k) KW [JOBS]-245A, revised 5/97 [2/94]; [and]
- (l) KW [JOBS]-246A, revised 5/97; [2/94-]
- (m) KW-241B, issued 5/97;
- (n) KW-244B, issued 5/97;
- (o) KW-245B, issued 5/97; and
- (p) KW-246B, issued 5/97.

(2) Material incorporated by reference may be inspected and copied at the Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

JOHN L. CLAYTON, Commissioner

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: July 2, 1997

FILED WITH LRC: July 11, 1997 at noon

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Marty Mason, Director

(1) Type and number of entities affected: The affected entities are families who apply for or receive benefits under the Temporary Assistance for Needy Families (TANF) block grant program called Kentucky Transitional Assistance Program (K-TAP). The passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 created the Temporary Assistance for Needy Families (TANF) block grant program and has eliminated entitlement to the Aid to Families with Dependent Children (AFDC) program. In addition, this act has eliminated the Job Opportunities and Basic Skills (JOBS) program funded under Title IV-F. The funding to implement work requirements for TANF block grant program is now included in Title IV-A. In Kentucky the TANF block grant program to implement the work requirements is called Kentucky Works. As of March 1997, there were a total of 63,739 basic AFDC cases and 2,458 AFDC-UP cases (unemployed parent cases), for a total of 66,197 AFDC cases. In March 1997, there were approximately 48,123 adults in those cases. Adults receiving K-TAP are required to participate in the Kentucky Works Program unless the recipient meets exemption criteria delineated in the administrative regulation. A person who has failed to comply with work requirements without good cause will be penalized by reducing the amount of the assistance otherwise payable to the family on a pro rata basis and will continue to be applied until the participant complies with program requirements. The wage supplementation component is added to the Kentucky Works components.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the publication of the notice of intent.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the

publication of the notice of intent.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: First year following implementation: The individuals who are applicants or recipients of K-TAP, who are required to participate in Kentucky Works provisions will have additional compliance, reporting or paperwork requirements due to the completion of a new self-sufficiency plan by completing the Transitional Assistance Agreement. This plan contains an employment goal for the participant, the services to be provided by the agency including child care, activities to be undertaken by the recipient to achieve the employment goal, and other needs of the family. This plan will be completed by adult members of the case including teenage parents ages eighteen (18) and nineteen (19). This plan assists the parent in outlining future goals to be achieved by the parent in obtaining employment and achieving self sufficiency. Individuals required to complete the form will be interviewed during the next case recertification and will not be required to make a special trip to the office to complete the form; therefore, the individual will not be fiscally impacted by the completion of the Transitional Assistance Agreement. Work requirements are mandated by 42 USC 601 et seq. for adults receiving K-TAP. Within twenty-four (24) months of receiving K-TAP assistance, a parent or caretaker relative receiving assistance, will be required to work or participate in approved work activities. Individuals who are work ready UP's (unemployed parents) or sanctioned individuals in the current JOBS program will be given an opportunity to participate in the Kentucky Works program prior to their next reinvestigation month since all adults are now required to participate unless an exemption under Kentucky Works is met. These individuals will be notified by mail and will be asked to attend a scheduled meeting to discuss work requirements. This special trip to the location of the meeting will take place in the county of residence and will have a fiscal impact to the individual in the amount of the transportation cost to go to the meeting. This amount will vary from individual to individual; however, if the individual is unable to attend the scheduled meeting, the person may be notified by a caseworker for a home visit. Adults with a child under twelve (12) months of age, since they meet an exemption criteria for a limited period, will be notified by mail if they desire to be exempted or to participate in Kentucky Works and not use up their limited exemption. This will cause no fiscal impact on these individuals since this can be done by mail and will not require a special trip to the office.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings to the agency:

1. First year: The breakdown of costs and savings to the agency for the first year are listed below:

a. Grant reduction due to reducing the amount of the assistance otherwise payable to the family on a pro rata basis for not complying with Kentucky Works for the first year - 0

b. System changes/technology support (cost) - \$200,000

c. Training (cost) - \$1,200,000

d. Printing new forms (cost) - \$30,000

e. Marketing (cost) - \$75,000

f. Upgrade field workers (cost) - \$48,300

g. Contract case management in Jefferson County (cost) - \$227,500

h. New equipment needs (cost) - \$810,600

i. Relocation (cost) - \$20,000

j. Total for first year - \$2,611,400

2. Continuing costs or savings: The breakdown of costs and savings to the agency for the second year and continuing are listed as projected below:

a. Grant Reduction due to reducing the amount of the assistance otherwise payable to the family on a pro rata basis for not complying with Kentucky Works without good cause is a savings to the agency of - +\$200,000

b. System changes/technology support (cost) - \$500,000

c. Training (cost) - \$1,200,000

d. Printing new forms (cost) - \$0

e. Marketing (cost) - \$100,000

f. Upgrade field workers (cost) - \$588,600

g. Contract case management in Jefferson County (cost) - \$1,300,000

h. New equipment needs (cost) - \$0

i. Relocation (cost) - \$20,000

j. Total for second year (net) - \$3,508,600

3. Additional factors increasing or decreasing costs: The state and federal expenditures do not include projections for the community and local involvement which will be critical to the success of this program.

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal funds and state funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: To be determined after the publication of the notice of intent.

(b) Kentucky: To be determined after the publication of the notice of intent.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered since the state is responsible under federal requirements to implement the work requirements for the block grant program funded under 42 USC 601 et seq.

(8) Assessment of expected benefits:

(a) Identify effects on public welfare and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation is needed to comply with the mandated work requirements found in 42 USC 601 et seq., and to implement the Kentucky Works program that replaces the JOBS program.

(b) State whether a harmful effect on environment and public health would result if not implemented: A detrimental effect on public welfare would result if this amendment is not implemented.

(c) If detrimental effect would result, explain detrimental effect: Public assistance benefits (including supportive services) received by needy Kentuckians may be jeopardized if Kentucky does not meet the mandates delineated in our Title IV-A State Plan as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. If public assistance benefits received by needy Kentuckians are jeopardized, these individuals would lose a source of support for their family including assistance for supportive services such as transportation and child care which enables the parent to remain employed.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through federal requirements.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 USC 601 et seq.

2. State compliance standards. KRS 205.200

3. Minimum or uniform standards contained in the federal mandate. None

ADMINISTRATIVE REGISTER - 327

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No

5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

COMPILER'S NOTE: The following administrative regulations were amended by the promulgating agency and the Administrative Regulation Review Subcommittee on July 8, 1997, unless otherwise noted.

DEPARTMENT OF LAW
Division of Consumer Protection
(As Amended)

40 KAR 2:250. Filing of annual reports by cemeteries.

RELATES TO: KRS 367.946(4)

STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 367.972(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 367.972(2) authorizes the Attorney General to promulgate administrative regulations to implement KRS 367.932 to 367.974 and 367.991. KRS 367.946(4) requires a person registered pursuant to KRS 367.946(1) to file an annual report on the form established by the Attorney General. This administrative regulation establishes the requirements for the annual report, the deadline for filing the report, and incorporates by reference the required report form. [~~KRS 367.972(2) grants to the Attorney General the authority to establish such rules and administrative regulations as are necessary to carry out the provisions of KRS 367.932 to 367.974 and 367.991. KRS 367.946(4) requires that every person who has registered with the Attorney General pursuant to KRS 367.946(1) must file an annual report with the Attorney General which includes the information specified by KRS 367.946(4) and information reasonably required by the Attorney General pursuant to KRS 367.946(4). This administrative regulation sets forth the definition of the twelve (12) month period to be covered by the report and establishes a date by which such report must be submitted to the Attorney General, pursuant to KRS 367.946(4).]~~

Section 1. Definition. "Last twelve (12) months" means January 1 through December 31 of the preceding calendar year. [~~Definitions. (1) The term "last twelve (12) months" as used in KRS 367.946(4) shall mean the preceding calendar year beginning on January 1, and ending on December 31.~~

~~(2) "Filed" shall mean actual physical delivery, or committed to the United States mail and postmarked.]~~

Section 2. Annual Report. The annual report for the last twelve (12) months shall:

(1) Be filed with the Attorney General by midnight of March 31 following the end of the last twelve (12) months. A report postmarked by that time shall be considered timely filed;

(2) Be on the Sellers of Cemetery Merchandise and Cemetery Companies Annual Report form; and

(3) Contain the information required by KRS 367.946(4) and
~~(5). [Annual Report Due Date. (1) The annual report required pursuant to KRS 367.946(4) for the last twelve (12) months shall be filed with the Attorney General not later than midnight of March 31 following the end of the last twelve (12) months.~~

~~(2) Failure to file the annual report by the date due in subsection (1) of this section shall make the person or cemetery company subject to all disciplinary measures available to the Attorney General pursuant to KRS 367.972 and 367.973.]~~

Section 3. If a person or company filed an annual report that included a portion of the calendar year preceding the effective date of this administrative regulation, the person or company shall file a new annual report for the portion of the year that was

not previously reported.

Section 4. Incorporation by Reference. (1) "Sellers of Cemetery Merchandise and Cemetery Companies Annual Report", Form CFH-1, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Office of the Attorney General, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [Cemeteries with Fiscal Years not Coinciding With Calendar Years. (1) A person or cemetery company registered with the Attorney General whose fiscal year does not coincide with the calendar year shall file an annual report based on the calendar year.

(2) Persons or cemetery companies which have already filed an annual report which included a portion of the calendar year preceding the effective date of this administrative regulation shall file an annual report for that portion of the year not previously reported. Thereafter, such persons or cemetery companies shall file annual reports in compliance with Section 2 of this administrative regulation.]

ALBERT B. CHANDLER III, Attorney General
APPROVED BY AGENCY: March 12, 1997
FILED WITH LRC: March 25, 1997 at noon

DEPARTMENT OF LAW
Division of Consumer Protection
(As Amended)

40 KAR 2:260. Filing of annual reports by preneed burial licensees.

RELATES TO: KRS 367.940(4)

STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 367.972(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 367.972(2) authorizes the Attorney General to promulgate administrative regulations to implement KRS 367.932 to 367.974 and 367.991. KRS 367.940(4) requires a person licensed pursuant to KRS 367.940(1) to file an annual report on the form established by the Attorney General. This administrative regulation establishes the requirements for the annual report, the deadline for filing the report, and incorporates by reference the required report form. [~~KRS 367.972(2) grants to the Attorney General the authority to establish such rules and administrative regulations as are necessary to carry out the provisions of KRS 367.932 to 367.974 and 367.991. KRS 367.940(4) requires that every person who has registered with the Attorney General pursuant to KRS 367.946(1) must file an annual report with the Attorney General which includes the information specified by KRS 367.940(4) and information reasonably required by the Attorney General pursuant to KRS 367.940(4). This administrative regulation sets forth the definition of the twelve (12) month period to be covered by the report and establishes a date by which such report must be submitted to the Attorney General, pursuant to KRS 367.940(4).]~~

Section 1. Definition. "Last twelve (12) months" means January 1 through December 31 of the preceding calendar year. [~~Definitions. (1) The term "last twelve (12) months" as used in KRS 367.940(4) shall be construed to mean the preceding calendar year~~

ADMINISTRATIVE REGISTER - 329

beginning on January 1, and ending on December 31.

(2) "Filed" shall mean actual physical delivery, or committed to the United States mail and postmarked.]

Section 2. Annual Report. The annual report for the last twelve (12) months shall:

(1) Be filed with the Attorney General by midnight of March 31 following the end of the last twelve (12) months. A report postmarked by that time shall be considered timely filed;

(2) Be on the Preneed Burial License Annual Report form; and

(3) Contain the information required by KRS 367.940(4) and (5). [Annual Report Due Date. (1) The annual report required pursuant to KRS 367.940(4) for the last twelve (12) months shall be filed with the Attorney General not later than midnight of March 31 following the end of the last twelve (12) months.

(2) Failure to file the annual report by the date due in subsection (1) of this section shall make the licensee subject to all disciplinary measures available to the Attorney General pursuant to KRS 367.972 and 367.973.]

Section 3. If a licensee filed an annual report that included a portion of the calendar year preceding the effective date of this administrative regulation, the licensee shall file a new annual report for the portion of the year that was not previously reported.

Section 4. Incorporation by Reference. (1) "Preneed Burial License Annual Report", Form CFH-2, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Office of the Attorney General, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [Licensees with Fiscal Years not Coinciding with Calendar Years. (1) A licensee registered with the Attorney General whose fiscal year does not coincide with the calendar year shall file an annual report based on the calendar year.

(2) Licensees who have already filed an annual report which included a portion of the calendar year preceding the effective date of this administrative regulation shall file an annual report for that portion of the year not previously reported. Thereafter, such licensees shall file annual reports in compliance with Section 2 of this administrative regulation.]

ALBERT B. CHANDLER III, Attorney General
APPROVED BY AGENCY: March 12, 1997
FILED WITH LRC: March 25, 1997 at noon

OFFICE OF THE ATTORNEY GENERAL
Prosecutors Advisory Council
(As Amended)

40 KAR 3:010. Payment schedule to hospitals, [f]physicians and sexual assault nurse examiners for medical examination of victims of sexual offenses.

RELATES TO: KRS [Chapter] 216B.400(5), (6) [; 314.142; 510.010 to 510.140; 530.020]

STATUTORY AUTHORITY: KRS 216B.400(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.400(6) requires the Attorney General to promulgate an administrative regulation [regulations] to determine the rate to be paid to hospitals, [and] physicians and sexual assault nurse examiners for the examination of victims of sexual offenses. This [proposed] administrative regulation [is to] establishes the procedures to be included in the [such an] examination, and a standard payment rate for hospitals,

[and] physicians and sexual assault nurse examiners for performing the services mandated by KRS 216B.400.

Section 1. An emergency room medical examination of victims of sexual offenses shall include a:

(1) ~~[When performing an emergency room medical examination of victims of sexual offenses the examination shall include the following: [Definition:]~~

(1) ~~[Basic emergency room treatment includes:~~

(a) ~~[Patient assessment;~~

(2) ~~[(b)] Maintenance of medical records in accordance with 002 KAR 20:016(11);~~

(3) ~~[(c)] Gathering and handling of physical evidence in accordance with the procedures of the Kentucky State Police, Central Crime Laboratory;~~

(4) ~~[(d)] Obtaining appropriate patient consent for examination (a minor may consent to examination);~~

(5) ~~[(e)] Hospital verification that appropriate law enforcement agencies have been notified of the reported sexual offense;~~

(6) ~~[(f)] Physician or sexual assault nurse examiner signature attesting to the performance of the examination and collection of evidence;~~

(7) ~~[(g)] Informing the victim of available services for treatment of venereal diseases, pregnancy and other medical and psychiatric problems; and~~

(8) ~~Performing [(2)] laboratory cultures and tests to discover the presence of [test for] venereal disease which shall include but not be limited to a) venereal disease reference laboratory (VDRL); and~~

(2) ~~[either a) Rapid plasma reagin (RPR), or a gonorrhea culture (GC); and~~

(3) ~~Other tests relevant to the discovery of the presence of venereal disease. [for RPR and GC culture.]~~

Section 2. Reimbursement rates for physicians, sexual assault nurse examiners and hospitals for performing sexual assault examinations shall not exceed the following limits:

(1) Physicians and sexual assault nurse examiners - fifty (50) dollars.

(2) Hospitals for use of an emergency room - thirty-five (35) dollars.

(3) Hospitals to perform laboratory tests - thirty-five (35) dollars. [Schedule of payment: physician - fifty (50) dollars; emergency room - thirty-five (35) dollars; laboratory - thirty-five (35) dollars. *Maximum payment.]

A.B. CHANDLER III, Attorney General
APPROVED BY AGENCY: February 20, 1997
FILED WITH LRC: February 26, 1997 at noon

GENERAL GOVERNMENT CABINET
Kentucky Board of Pharmacy
(As Amended)

201 KAR 2:225. Special pharmacy permit[medical gasses].

RELATES TO: KRS 217.015(5)(a), 315.010(9), 315.020, 315.035, 315.191(1)(a)

STATUTORY AUTHORITY: KRS 315.020, 315.035, 315.191(1)(a)
NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation establishes, consistent with the requirements of KRS 315.191(1)(a), minimum requirements for the permitting of those entities that distribute medical gasses.

Section 1. Definitions. (1) "Special pharmacy permits" means a permit issued to a pharmacy that provides [are pharmacies providing] miscellaneous specialized pharmacy service and functions.

(2) "Medical gasses" means [are] oxygen United States Pharmacopoeia [USP] and nitrous oxide.

Section 2. General Requirements. (1) (a) An [Each] applicant for a special pharmacy permit for medical gasses [licensee] shall comply with the requirements of 201 KAR 2:180 and 201 KAR 2:205, except that the pharmacist-in-charge designated on the special permit shall be [ie] exempt from the requirements of 201 KAR 2:205, Section 2(2).

(b) The pharmacist-in-charge shall review the records of the special pharmacy permit for medical gasses [licensee] not less than once each quarter.

(2) An [Each] applicant for a special pharmacy permit for medical gasses [licensee] shall prepare and adopt a policy and procedures manual that [which] sets forth a detailed description of how the:

(a) Operation will comply with applicable federal, state, or local [any] laws or administrative regulations; [which may be applicable] and

(b) [how the] Licensee will maintain the premises so that the medical gasses remain secure and comply with [the] applicable compendial monographs of official pharmacopoeias specified by KRS 217.015(5)(a).

(3) An [Each] applicant for a special pharmacy permit for medical gasses [licensee] shall be inspected by the board [subject to inspection] prior to the issuance of the license.

Section 3. Qualifications for License. (1) The board shall consider the following in reviewing the qualifications of an applicant for a special permit for medicinal gasses:

(a) The applicant's experience in the sale or distribution of prescription drugs, including controlled substances;

(b) A felony conviction of the applicant under federal, state, or local laws;

(c) The furnishing by the applicant of false or fraudulent material in a previous application for:

1. A special permit for medical gasses; or

2. A federal or state medical assistance program;

(d) Suspension or revocation of an applicant's license or permit by federal, state, or local government; and

(e) Compliance with requirements under a previously granted license or permit.

(2) The board shall deny an application for a special permit for medical gasses, if an applicant has:

(a) Been convicted for a violation of federal, state, or local laws relating to:

1. The practice of pharmacy;

2. Drugs; or

3. Federal or state medical assistance programs.

(b) Furnished false or fraudulent material in the application for a special permit for medical gasses;

(c) Failed to maintain or make available required records to the:

1. Board; or

2. Federal, state, or local law enforcement officials;

(d) Failed to comply with applicable federal, state, and local laws and regulations relating to medical gasses; or

(e) Failed to provide appropriate land, buildings, and security necessary to properly carry on the business described in his application. [The minimum qualifications shall include:

(a) The Kentucky Board of Pharmacy shall consider, at a minimum, the following factors in reviewing the qualifications of persons who apply to engage in the delivery of medical gasses to the ultimate consumer or user within the Commonwealth:

1. Any convictions of the applicant under any federal, state, or local laws relating to pharmacy, drug, or federal or state medical assistance programs;

2. Any felony convictions of the applicant under federal, state, or local laws;

3. The applicant's past experience in the sale or distribution of prescription drugs, including controlled substances;

4. The furnishing by the applicant of false or fraudulent material in any application made in connection with an application for a special pharmacy permit medical gasses license or in any federal or state medical assistance program;

5. Suspension or revocation by federal, state, or local government of any license currently or previously held by the applicant;

6. Compliance with licensing requirements under previously granted licenses, if any; and

7. Compliance with requirements to maintain or make available to the Kentucky Board of Pharmacy or to federal, state, or local law enforcement officials those records required.

(b) The Kentucky Board of Pharmacy shall have the right to deny a license to an applicant if it determines that the granting of such a license would not be in the public interest based on health and safety considerations.

(2) No license shall be issued pursuant to this administrative regulation unless the applicant has furnished proof satisfactory to the Board of Pharmacy:

(a) That the applicant is in compliance with all applicable federal and state laws and regulations relating to medical gasses; and

(b) That the applicant is equipped as to land, buildings, and security to properly carry on the business described in his application.]

Section 4. License Fees; Renewals. An applicant shall submit:

(1) An initial or renewal application for a special permit for medicinal gasses on "Application for Permit to Operate A Pharmacy In Kentucky"; and

(2) As appropriate, the:

(a) Initial application fee established by Section 1(10), 201 KAR 2:050; or

(b) Renewal fee established by Section 1(11), 201 KAR 2:050.

Section 5. Incorporation By Reference. (1) "Application for Permit to Operate A Pharmacy In Kentucky (11/92)" is incorporated by reference. [(1) Applications for a special pharmacy permit medical gasses license shall be submitted to the Board of Pharmacy on "Application for Permit to Operate a Pharmacy in Kentucky (11/92)" and is incorporated by reference.]

(2) This form may be obtained, inspected, or copied at the Kentucky Board of Pharmacy, 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky 40601-8204, 8 a.m. to 4:30 p.m., Monday through Friday.

MICHAEL B. WYANT, President

APPROVED BY AGENCY: April 1, 1997

FILED WITH LRC: April 1, 1997 at 2 p.m.

GENERAL GOVERNMENT CABINET
Real Estate Commission
(As Amended)

201 KAR 11:400. Agency disclosure requirements.

RELATES TO: KRS 324.160(1)(e)

STATUTORY AUTHORITY: KRS 324.160(1)(e), (j), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.160(1)(e) authorizes the commission to take disciplinary action if a licensee acts for more than one (1) party in a transaction without the knowledge of all parties. KRS 324.282 authorizes the commission to promulgate administrative regulations necessary to implement KRS Chapter 324. This administrative regulation establishes a specific format for disclosing the relationship between a broker or sales associate, seller, and

buyer in a residential transaction to: (1) ensure that each party knows what relationship exists between the parties; and (2) have documented evidence that the disclosure occurred. [KRS 324.382 authorizes the Real Estate Commission to promulgate administrative regulations necessary to implement KRS Chapter 324. KRS 324.160(1)(e) permits the commission to take disciplinary action when a licensee acts for more than one (1) party in a transaction without the knowledge of all parties. This administrative regulation describes and requires disclosure of relationships between brokers, sales associates, and consumers.]

Section 1. Definitions. (1) **"Commercial transaction" means a transaction other than the sale of a single-family residential property, multifamily property containing four (4) units or less, single-family residential lot, or agricultural property.**

(2) "Delivery" means delivery of an item to a prospective party or his broker or sales associate by:

- (a) Mail;
- (b) FAX transmission;
- (c) Messenger; or
- (d) Hand.

(3) [(2)] "First contact" means the period:

(a) Before a contract containing a duty of representation and compensation is entered into by a:

1. Prospective party who does not have a broker or sales associate; and
2. A broker or sales associate who has offered to represent him;

or

(b) Before the beginning of discussions relating to a real estate transaction between a:

1. Prospective party who does not have a broker or sales associate; and
2. A broker or sales associate who has proposed to discuss the real estate transaction with him.

(4) [(3)] "First substantial contact" means the period between the first contact and the period immediately preceding the presentation of [before] a written offer to purchase [is presented].

(5) [(4)] "Prospective party" means a person who:

- (a) Enters a listing contract as a seller;
- (b) Enters a buyer broker agreement as a buyer; or
- (c) Seeks or uses the services of a broker or sales associate.

(6) [(5)] "Prospective party who is represented by a broker or sales associate" means a person who has entered into a current listing contract, or buyer broker agreement with a broker or sales associate.

Section 2. The provisions of this administrative regulation shall not apply to a:

- (1) Sale [Sales] of real estate at auction; [or]
- (2) Property management of real estate; or

(3) Commercial transaction. [transactions. Commercial transaction means any transaction other than sales of single-family residential properties, multifamily properties containing four (4) units or less, single-family residential lots and agricultural property.] [Commercial means any transaction other than sales of owner-occupied single family residential or agricultural property and sales of single family residential lots.]

Section 3. Prospective Party Information. (1) A broker or sales associate shall deliver to a prospective party an **Agency Information Bulletin on the first contact. The Agency Information Bulletin shall:**

- (a) Be prepared by the broker or sales associate; and
- (b) Generally summarize the possible relationships that may exist between the broker or sales associate, and the buyer and seller.

(2) A broker or sales associate shall deliver to a prospective

party an "Agency Disclosure Form" on the first substantial contact. The "Agency Disclosure Form" shall:

[(a) "Agency Information For Consumers Bulletin", on the first contact; and

(b) "Agency Disclosure Form", on the first substantial contact. (2) An "Agency Disclosure Form" shall:

(a) Be signed by each:

1. Prospective party to the transaction; and
2. Broker or sales associate involved in the transaction; and

(b) Identify:

1. Each prospective party known to the broker or sales associate making the disclosure ~~[except that prospective parties who intend to buy or rent for a nonowner-occupant residential use who direct that their identity not be disclosed in writing, shall not be identified];~~

2. If a prospective party is represented by a broker or sales associate, the name of the broker or sales associate, his real estate company, and whom he represents ~~[they represent except as provided in subparagraph 1 of this paragraph];~~ and

3. The real estate that is the subject of the negotiation;

(c) Describe the personal, family, or business relationships between:

1. The broker or sales associate making the disclosure; and
2. Each prospective party known to the broker or sales associate when the disclosure is made;

(d) State whether the broker or sales associate making the disclosure is acting as a principal as a prospective:

1. Seller;
2. Buyer;
3. Lender; or
4. Investor; and

(e) Contain a statement that:

1. An agent owes a fiduciary duty to his client, including:

a. A duty of loyalty;

b. Giving the client all the information the agent knows about the property;

c. Honesty and fair dealing; and

d. Negotiating in the best interests of his client;

2. An agent owes a duty of honesty and fair dealing to his customer; and

3. The payment of a fee to an agent shall not create a fiduciary duty to the person paying the fee.

(3) The "Agency Disclosure Form" and the "Agency Information For Consumers Bulletin" required by subsection (1) of this section shall be:

(a) The "Agency Disclosure Form Approved By Kentucky Real Estate Commission", and the "Agency Information For Consumers Bulletin Approved by Kentucky Real Estate Commission"; or

(b) An Agency Disclosure Form, and Agency Information For Consumers Bulletin, that have been developed by the broker or sales associate and approved by the commission.

(4) ~~[An "Agency Information For Consumers Bulletin" developed by a licensee:~~

~~(a) Shall consist of the material contained in the "Agency Information For Consumers Bulletin Approved by Kentucky Real Estate Commission"; and~~

~~(b) May contain the principal broker's logo and be in a format that differs from the "Agency Information For Consumers Bulletin Approved by Kentucky Real Estate Commission".~~

(5) (a) An "Agency Disclosure Form" ~~[or "Agency Information For Consumers Bulletin"]~~ that has been developed by the broker or sales associate, shall be submitted to the commission for approval.

(b) The general counsel of the commission shall:

1. Review the form ~~[or bulletin];~~
2. Make a recommendation to the commission that the form ~~[or bulletin]~~ be approved or disapproved; and
3. Inform the broker or sales associate of the commission's decision.

Section 4. Commission Review of Licensee Documents. The commission shall:

- (1) Review a licensee listing agreement [agreements], buyer broker agreement [agreements], and purchase agreement;
- (2) Approve an agreement [agreements] that it determines contains the information required by this administrative regulation; and
- (3) Inform the broker or sales associate of the commission's [~~licensees of commission~~] action.

Section 5. Incorporation By Reference. (1) ~~[The following documents are incorporated by reference:~~

- ~~(a) "Agency Disclosure Form Approved By Kentucky Real Estate Commission (Sep-07-1995)", is incorporated by reference. [-and~~
- ~~(b) "Agency Information For Consumers Bulletin Approved by Kentucky Real Estate Commission (Sep-07-1995)";]~~

(2) It [~~They~~] may be inspected, copied, or obtained at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville Kentucky 40223, 8 a.m. to 4:30 p.m., Monday through Friday.

JAMES H. HUFF, Chairman

APPROVED BY AGENCY: May 5, 1997

FILED WITH LRC: May 6, 1997 at 11 a.m.

COMPILER'S NOTE: The following administrative regulation, 401 KAR 8:030, was amended by the promulgating agency and the Interim Joint Committee on Agriculture and Natural Resources on July 9, 1997.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water
(As Amended)**

401 KAR 8:030. Water treatment plants; water distribution systems; certification of operators.

RELATES TO: KRS Chapters 223, 224

STATUTORY AUTHORITY: KRS 223.160 to 223.220, 224.10-100, 224.10-110[~~42-USCA-300f, 300g, 300j, 40-CFR-141.2, as amended at 54-Federal Register 27526 and 27562 (1989)~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 223.160-223.220 establishes a board of certification and authorizes the cabinet to establish a program requiring certification of water system operators. KRS 224.10-110 directs the cabinet to enforce administrative regulations adopted by the secretary for the regulation and control of the purification of water for public and semipublic use and for the certification of water plant operators. [~~The Safe Drinking Water Act, as amended by the Safe Drinking Water Act Amendments of 1986, provides for primary enforcement responsibility by states that have adopted regulations "no less stringent than the national primary drinking water regulations", as well as meeting other criteria stipulated by the Act. The Commonwealth of Kentucky has accepted and is currently exercising the primary enforcement responsibility.] This administrative regulation establishes standards for classification of water treatment plants and water distribution systems; qualifications of applicants; examination procedures; duties of the Kentucky Board of Certification of Water Treatment Plant and Water Distribution System Operators; and provisions relating to the issuance and renewal of certificates; disciplinary actions; and other provisions necessary for the certification of operators. The Safe Drinking Water Act Amendments of 1996, enacted August 6, 1996 (PL 104-182), include a provision for the certification of operators of public water systems. The regulations to implement the federal law are required~~

no later than thirty (30) months after enactment of the federal law. Therefore, there are no federal regulations and this administrative regulation is not more stringent than the federal law or regulation.

Section 1. General Provisions. (1)(a) Each public water system shall ensure that each component of the system is operated according to the provisions of KRS Chapters 223 and 224 and the administrative regulations of this chapter.

(b) ~~[Direct responsible charge.]~~ Each public water system shall operate its water treatment plant and water distribution system ~~[be operated]~~ under the supervision of a certified operator who is in direct ~~[direct]~~ responsible charge of the system. Certified operators are not required for semipublic water systems.

(c) All ~~[The]~~ certified operators in direct ~~[direct]~~ responsible charge shall hold a valid certificate in a class equal to or higher than that required for the system under his supervision. A ~~[The]~~ certified operator ~~[in direct responsible charge]~~ may be an individual who has been assigned ~~[sole]~~ responsibility for the operational procedures performed at the plant ~~[operation of the system]~~, or may be a person who is supervising ~~[has been delegated the direct responsibility to supervise]~~ others in the performance of operational procedures at the plant. ~~[their duties in operating the system. The certified operator in direct responsible charge shall be physically on the premises of the water treatment facility or otherwise performing system-related duties within the system during the shifts for which the operator is responsible, except as provided in subsection (2) of this section. System related duties include but are not limited to attending local government meetings, having parts repaired, purchasing supplies and maintenance of distribution system appurtenances.]~~

(2) Staffing requirements.

(a) Shifts.

~~(a) Water treatment systems. Public water systems shall employ a certified operator in direct responsible charge as specified in subparagraphs 1 through 4 of this paragraph;~~

~~1. Class I. Operational procedures performed at Class IA-D or IB-D water treatment systems shall be conducted under the supervision of, or by, a certified operator.~~

~~2. Class II.~~

~~a. Operational procedures performed at Class IIA water treatment systems serving a population less than 500 shall be conducted under the supervision of, or by, a Class IIA, IIIA or IVA certified water treatment plant operator. Class IIA water treatment systems serving a population equal to or greater than 500 and less than 3,000 shall be staffed with a Class IIA, IIIA or IVA certified water treatment plant operator in direct responsible charge during the daytime shift. Operational procedures conducted during other shifts shall be conducted under the supervision of, or by, a Class IIA, IIIA or IVA certified water treatment plant operator.~~

~~b. Operational procedures performed at Class IIB-D water treatment systems shall be conducted under the supervision of, or by, a Class IIA, IIB-D, IIIA, IIIB or IVA certified operator.~~

~~c. Operational procedures performed at Class IIC-D water treatment systems shall be conducted under the supervision of, or by, a Class IIA, IIB-D, IIC-D, III or IV certified operator.~~

~~3. Class III.~~

~~a. Class IIIA water treatment systems shall be staffed with a Class IIIA or IVA certified water treatment plant operator in direct responsible charge of shifts where water is treated.~~

~~b. Class IIIB and IIIC water treatment systems shall be staffed by a Class III or IVA certified water treatment plant operator in direct responsible charge during the daytime shift. Operational procedures conducted during other shifts shall be conducted under the supervision of, or by, a Class III or IVA certified water treatment plant operator.~~

~~4. Class IV. Class IVA water treatment systems shall be staffed with a Class IVA certified water treatment plant operator in direct responsible charge for shifts where water is treated.~~

(b) Water distribution systems. Operational procedures performed within water distribution systems shall be conducted by or under the supervision of ~~or by~~ a distribution system operator certified in a class equal to or higher than the class of the system. ~~Furthermore, water distribution systems having booster chlorination or other treatment capabilities shall be staffed with a certified distribution operator in direct responsible charge in a class equal to or higher than the class of the distribution system during the daytime-weekday shift.~~

(b) Combination water treatment plants and water distribution systems. Operational procedures at all Class IA-D, IB-D, and IIB-D water systems shall be conducted by or under the supervision of a certified water system operator who holds a valid combination or separate water treatment and distribution system operator certificate of the appropriate class and who is in direct responsible charge of the system.

(c) Water treatment plants.

1. Class IIA. Operational procedures at a Class IIA water treatment plant shall be conducted by a certified water treatment plant operator who holds a valid certificate in a class equal to or higher than Class IIA who is in direct responsible charge of the plant and is physically located on the premises of the water treatment plant during the daytime shift or is otherwise performing system-related duties. Operational procedures conducted during other shifts shall be conducted by or under the supervision of a Class IIA, IIIA, or IVA certified water treatment plant operator.

2. Class IIIA. Operational procedures at a Class IIIA water treatment plant shall be conducted by a certified water treatment plant operator who holds a valid certificate in a class equal to or higher than Class IIIA who is in direct responsible charge of the plant and is physically located on the premises of the water treatment plant when water is being treated or is otherwise performing system-related duties.

3. Class IIIB. Operational procedures at a Class IIIB water treatment plant shall be conducted by or under the supervision of a certified water treatment plant operator who holds a valid certificate in a class equal to or higher than Class IIIB who is in direct responsible charge of the system.

4. Class IVA. Operational procedures at a Class IVA water treatment plant shall be conducted by a certified water treatment plant operator who holds a valid Class IVA certificate who is in direct responsible charge of the plant and is physically located on the premises of the water treatment plant when water is being treated or is otherwise performing system-related duties. **Class IVA water treatment plants that treat water during more than one (1) shift per day may use a Class IIIA operator for the additional shifts, if the Class IVA operator in direct responsible charge is on call and is able to respond on site within thirty (30) minutes.**

5. Class IVB. Operational procedures at a Class IVB water treatment plant shall be conducted by or under the supervision of a certified water treatment plant operator who holds a valid certificate in a class equal to or higher than Class IVB who is in direct responsible charge of the system.

(3) Certifiable personnel. Persons who are under the supervision of the operator in direct ~~direct~~ responsible charge are encouraged to and may become certified by the cabinet if they meet the ~~appropriate education and experience~~ requirements of Section 8 of this administrative regulation and pass the appropriate examination of the requested class. This provision shall apply only to personnel who have hands-on drinking water treatment or distribution system experience.

(4) Production personnel. On-site laboratory or distribution personnel and others who have significant routine input into the treatment ~~production~~ or distribution of potable water may be certified if they demonstrate to the satisfaction of the cabinet that they meet the education and experience requirements and possess the technical and practical knowledge to perform the procedures involved in the

operation of a water treatment plant or water distribution system.

(5) A public water system may fulfill the staffing requirements of this section by securing a contract operator or an operations firm. If a public water system secures a contract operator or operations firm to operate a treatment plant or distribution system, the public water system shall provide the following information to the cabinet:

(a) Name, mailing address, and telephone number of:

1. The certified operator or contract operations firm; and

2. Principal contact within the firm for certification activities, if different;

(b) Name and certificate type and number for each certified operator;

(c) Facility name, public water supply identification number, and county location of each system for which the operator is assuming responsibility;

(d) Effective date and expiration date of the contract; and

(e) Duties and responsibilities to be performed by each party involved. ~~[Semipublic system. Certified operators are not required for semipublic water systems.]~~

(6) Certificate display. If a public water system office is available at the water treatment plant or within the distribution system, each ~~the~~ operator's certificate~~s~~ shall be prominently displayed ~~on the wall~~.

(7) Wallet card. Certified operators shall carry the ~~cabinet-issued~~ wallet card issued by the cabinet in accordance with Section 4(1) of this administrative regulation showing current certification status while on duty.

(8) ~~Provisional compliance. Public water systems that are in compliance with all other provisions of 401 KAR Chapter 8 except for the requirements of subsections (1) and (2) of this section shall be in provisional compliance if:~~

~~(a) The system comes into compliance with the requirements of subsections (1) and (2) of this section within ninety (90) days of the loss of the certified operator; or~~

~~(b) 1. A Class II, III, or IV public water system submits a written request to the cabinet for its approval of ~~for~~ a provisional staffing plan. During provisional compliance, public water systems may use as provisional operators those certified operators who possess a certificate of one (1) class lower than that required by the facility, if a certified operator of the appropriate class as required by subsections (1) and (2) of this section is immediately available. No more than two-thirds (2/3) of the number of operators required each day for the facility to maintain coverage of the hours when water is treated may be provisional operators.~~

~~2. The provisional staffing plan shall contain ~~which contains~~ the following information:~~

~~a. The number of hours water is treated each day of the week or shift rotation, averaged over seven (7) days;~~

~~b. If water is treated continuously or intermittently during that time period;~~

~~c. The average number of hours each certified or uncertified operator works each day within a week or shift rotation; and~~

~~d. How the system will meet the requirements of subsections (1) and (2) of this section within a reasonable time frame, not to exceed two (2) years; ~~required in subsection (9) of this section.~~~~

~~3. ~~The cabinet approves the provisional staffing plan; and~~~~

~~4. ~~The system is meeting the approved provisional staffing plan, including all conditions assigned by the cabinet.~~~~

~~(e) During provisional compliance, public water systems may use certified operators who possess a certificate of one (1) class lower than that required by the facility as provisional operators, if a certified operator of the appropriate class as required by subsections (1) and (2) of this section is immediately available. No more than two thirds (2/3) of the number of operators required for the facility to maintain coverage of the hours when water is treated may be provisional operators.~~

~~(9) Provisional staffing plan:~~

~~(a) [The provisional staffing plan shall demonstrate how the system will meet the requirements of subsections (1) and (2) of this section within a reasonable time frame, not to exceed two (2) years.~~

~~(b) The cabinet shall [will] approve the provisional staffing plan if:~~

~~1. The plan meets the criteria specified in subsection (8) of this section [and paragraph (a) of this subsection];~~

~~2. [The system is otherwise in compliance with 401 KAR Chapter 8 and maintains compliance during the provisional compliance period;~~

~~3. Public health and safety will be protected throughout the period identified in the provisional staffing plan; and~~

~~3. (4.) The system has not in the two (2) years before submitting the provisional staffing plan been issued more than three (3) notices of violation for one (1) of the following categories:~~

~~a. Violating a maximum contaminant level established by 401 KAR Chapter 8, and failing to monitor or to report as required by 401 KAR Chapter 8;~~

~~b. Violating a turbidity requirement of 401 KAR Chapter 8; or~~

~~c. Violating a chemical or radionuclide requirement of 401 KAR Chapter 8, [does not have a history of noncompliance in the last two (2) years.]~~

~~(b)(c) The provisional staffing plan shall be considered to be approved unless the cabinet otherwise notifies the system within ninety (90) days of the receipt of the provisional staffing plan.~~

~~(e) The cabinet may revoke its approval of a provisional staffing plan if the system violates a requirement of 401 KAR Chapter 8.~~

~~(d) [(d)] The cabinet shall [may] approve a second provisional staffing plan for a system if the public water system is in compliance with this subsection and subsection (8) of this section, the system has made reasonable efforts [taking into consideration previous efforts made] to obtain the requisite number of properly certified operators as required by subsections (1) and (2) of this section, and unusual or unforeseen events prevented the system from meeting the requirements of subsections (1) and (2) of this section within two (2) years after the cabinet's approval of the first provisional staffing plan.~~

~~(10) Reporting requirements.~~

~~(a) Each public water system shall notify the cabinet in writing within thirty (30) calendar days of certified operator employment changes.~~

~~(b) Certified operators shall notify the cabinet within thirty (30) calendar days of employment or mailing address changes. Employment change information shall include the name and identification number of the public water system, the effective date of the change, and whether the operator is assuming or relinquishing responsibility for the plant or system. [Staffing compliance schedule. Class III and IV public water systems subject to the on-site staffing requirements of subsection (2) of this section shall comply with the staffing requirements by January 1, 1993.]~~

Section 2. Duties of the Board. In carrying out its responsibilities and with consideration given to the minimum standards and guidelines of the ABC, the board may:

(1) Examine the qualifications of applicants and recommend qualified applicants to the cabinet for certification;

(2) Review and approve substitutions for education and experience requirements;

(3) Review and assist the cabinet in the preparation of examinations;

(4) Review and provide comments to the cabinet on proposed drinking water operator certification administrative regulations;

(5) Review and provide comments to the cabinet on proposed training courses and seminars designed to provide continuing education to certified operators;

(6) Review evidence and advise the cabinet regarding disciplinary actions for certified operators who fail to comply with the applicable laws and administrative regulations of the Commonwealth;

(7) Review the certification administrative regulations of states

which are seeking reciprocity with the Commonwealth; and

(8) Review and provide comments to the cabinet on proposed fees for training and certification of operators.

Section 3. Application and Examinations for Certification. (1) Application. An individual desiring to be certified shall file an application with the cabinet and pay the applicable fee specified in 401 KAR 8:050, Section 3. Application shall be made on the form entitled "Drinking Water or Wastewater Operator Certification Application" [a form] provided by the cabinet and incorporated by reference in Section 9 of this administrative regulation. Application[s] shall not be filed with the cabinet until the individual has met the minimum qualifications required in this administrative regulation.

(2) Examinations. The board and cabinet shall be jointly responsible for preparation of the examinations which shall be used in determining knowledge, ability and judgment of the applicants. The cabinet shall administer written exams unless the cabinet and board grant a waiver to allow an oral exam. Oral exams may be administered to applicants who meet the minimum qualifications outlined in Section 8 of this administrative regulation. The cabinet shall grade the examinations and notify the applicant of the outcome. Applicants shall achieve a score of at least seventy (70) percent to pass the examination. Examinations shall not be returned to the applicant, but results may be reviewed with a member of the board or cabinet upon written request by the applicant.

(3) Scheduling examinations. Examinations shall be conducted at least semiannually at places and times set by the cabinet. The cabinet shall provide advance announcement of these examinations.

(4) Examination content. The cabinet shall [will] prepare examinations to address the basic differences in the duties and responsibilities of certified operators, treatment processes, [types of facilities,] drinking water standards, surface and groundwater source characteristics and other pertinent matters.

(5) Applicant's conduct. Applicants found cheating shall be subject to disciplinary action including, but not limited to, a final score of zero on the examination, denial of future applications for certification, or the provisions of Section 5 of this administrative regulation.

(6) Confidentiality of examinations. Examination questions shall be [are] confidential. Any person who copies questions, removes all or part of any examination, or reveals all or part of any examination for unauthorized use shall [may] be denied certification, be subjected to the sanctions identified in Section 5 of this administrative regulation, or be liable for civil and criminal penalties pursuant to KRS 223.991 or 224.99-010.

(7) Qualified applicants, other than those specified in subsection (5) or (6) of this section, who fail to pass an examination may register to take the examination on [at] a regularly scheduled examination date.

Section 4. Issuance of Certificates. (1) Certification. Upon satisfactory fulfillment of the requirements of this administrative regulation and upon recommendation of the board, the cabinet shall issue a certificate and a wallet card to the applicant designating the classification of the water treatment plant or water distribution system for which the operator has demonstrated competency. [If information related to the operator's employment or mailing address changes from the application filed for certification, the certified operator shall provide written notification to the division within thirty (30) days. If a certified operator becomes permanently incapacitated while employed by a water treatment plant or distribution system, the employer shall notify the division.]

(2) Duration and renewal of certificates.

(a) Certificates for all certified operator classes, except the limited classification as identified in Section 6(5) [(4)] of this administrative regulation, shall be issued with a common expiration date of June 30 of even-numbered years, and shall remain valid until that date [valid

~~for up to two (2) years after each renewal], unless suspended or revoked for cause. Certificates issued between January 1 and June 30 of an even-numbered year will be issued to include the next two (2) year renewal period. [or replaced by one of a higher and similar classification.]~~

(b) Certificates shall expire on June 30 of even-numbered years if not renewed. Operators with expired certificates shall not be in direct responsible charge of a public water system.

(c) Renewals. Certificates shall [may] be renewed without examination, if the certified operator has a valid certificate [is in good standing]; upon completion of the required, board-approved continuing education hours outlined in subsection (7) of this section and upon submittal of a complete renewal application and applicable fees specified in 401 KAR 8:050, Section 3. Operators desiring renewal shall apply on the form entitled "Application for Certificate Renewal" [a form] provided by the cabinet and incorporated by reference in Section 9 of this administrative regulation by June 30 of even-numbered years. Expired certificates shall continue in force pending administrative processing of a renewal, if the certified operator has a valid certificate [is in good standing] and has complied with all the renewal requirements of this subsection and subsection (7) of this section by June 30 of the renewal year. Certificates continued under this paragraph remain fully effective and enforceable.

(d) [(b)] Limited certificates shall expire on June 30 of each year. The cabinet shall [may] renew the limited certificate upon receipt of the renewal application if the certified operator has complied with all requirements for proper operation of the facility under his direct responsible charge and has submitted a written application and applicable fees specified in 401 KAR 8:050, Section 3.

(3) Certification for a higher classification. Certified operators who desire to become certified in a higher classification shall satisfactorily complete the requirements of Sections 3 and 8 of this administrative regulation for the higher classification [before submitting a new application. Experience earned under a limited certificate shall not count toward fulfillment of qualifications for other classifications].

(4) Certificates shall be valid only while the holder uses reasonable care, judgment, and application of his knowledge in the performance of his duties. Certificates shall not be issued or valid if obtained through fraud, deceit or the submission of inaccurate data on qualifications.

(5) Termination of a certificate.

(a) If a certified operator fails to renew his certificate, the certificate shall terminate one (1) year after its expiration date [after two (2) consecutive renewal periods]. Limited certificates shall terminate on December 31 of the renewal year [immediately after the expiration date] if they are not renewed. Once a certificate has terminated, an operator shall apply, pay applicable fees and pass an examination in the classification for which he is qualified to be certified.

(b) Operators holding a certificate with an expiration date of June 30, 1994, on October 7, 1996 [the effective date of this emergency administrative regulation] may renew the certificate by fulfilling the renewal requirements specified in subsections (2)(c) and (7) of this section for each renewal period by June 30, 1997.

(6) Reciprocity. Certificates may be issued in a comparable classification, without examination, to a person who holds a valid certificate in a state, territory, or possession of the United States, or a country, if:

(a) The applicant filed a complete application as required in Section 3(1) of this administrative regulation;

(b) The certificate was earned by passing an examination in the reciprocal state;

(c) The requirements for certification [of operators] under which the [person's] certificate was issued are no less stringent than the provisions of KRS Chapters 223 and [KRS Chapter] 224 and this administrative regulation; and

(d) Reciprocal privileges are granted to certified operators of the

commonwealth.

(7) Training requirements.

(a) Certified operators shall accumulate continuing education credits approved by the cabinet or board, prior to applying for certificate renewal.

[1. This subparagraph shall apply to operators whose certification expires on or before June 30, 1992. Class I operators shall complete six (6) hours of training for renewal. Class II, III, and IV operators shall complete twelve (12) hours of appropriate cabinet-approved training for certificate renewal. Such training may include, but is not limited to, correspondence courses, short courses, trade association meetings, and on-the-job training courses. Training hours accumulated in excess of the minimum number required for renewal may be carried forward for two (2) years. No training is required for operators with limited certificates.]

2. This subparagraph shall apply to operators whose certification expires after June 30, 1992.] Class I and II certified operators shall complete twelve (12) hours of training for certificate renewal. Class III and IV certified operators shall complete twenty-four (24) hours of training for certificate renewal. The requisite training shall be completed for each renewal during the two (2) year period immediately prior to the certificate expiration date. Training includes[, but is not limited to,] correspondence courses, short courses, trade association meetings, and on-the-job training courses. [Training hours accumulated in excess of the minimum number required for renewal may be carried forward for two (2) years from the date earned. No] [Training is suggested but not required for operators with limited certificates.]

(b) [The board may waive any of the requirements of paragraph (a) of this subsection for all or portions of a class of operators, as identified in Section 7 of this administrative regulation.]

(c) 1. This subparagraph shall apply to operators whose certification expires on or before June 30, 1992. Operators holding both treatment and distribution certificates shall be required to complete eighteen (18) hours of training for recertification in lieu of the requirements of subsection (7)(a)1 of this section.

2. This subparagraph shall apply to operators whose certification expires after June 30, 1992.] Certified operators holding [with] separate [Class I and II] treatment and distribution certificates shall complete the [twelve (12) hours of] training hours for recertification required for only the highest certificate in lieu of the continuing education requirements specified for both certificates in paragraph (a) [of subsection (7)(a)2] of this subsection. [Certified operators holding separate Class III or IV treatment and distribution certificates shall complete twenty-four (24) hours of training for recertification in lieu of the continuing education requirements of subsection (7)(a)2 of this section.]

(c) [Certified operators shall keep their own records of approved training, education, and work experience and shall be prepared to present the records if requested by the cabinet.]

(d) [(e)] Certified operators who teach board-approved training courses shall [may] receive, upon approval of the board, hour-for-hour credit for actual instruction time.

(d) [(e)] The criteria for determining whether to approve training, other than the training provided by the cabinet, are:

1. The ability of the course to provide information that will enhance the proper operation and maintenance of water treatment and distribution systems; and

2. The ability of the instructor to properly present the information.

3. In making its determination regarding approval of training courses, the cabinet and board shall require that the following information be submitted for review: the course name; the date, location and a timed agenda for the course; the credit hours being requested; a summary of the course content of sufficient detail to determine relevance and quality of the course; and the name and credentials of each instructor for the course.

4. The board or cabinet may attend and evaluate, or cause to be evaluated, all board-approved courses.

(e) ~~((f))~~ All course administrators who provide board-approved training shall maintain records on each board-approved course conducted and shall submit the information in the records to the cabinet within thirty (30) days of the conclusion of the course. The information shall include, but not be limited to:

1. The course name;
2. The course number assigned by the cabinet;
3. The class date and location;
4. The name, certificate type and number, and hours attended by each operator; and
5. The course administrator's signature.

Section 5. Disciplinary Action. (1) A certified operator shall be subject to a disciplinary action identified in this section if the cabinet, in consultation with the board according to this section, determines that the individual ~~(certified operator)~~ has:

(a) Willfully or negligently violated or caused a violation of this administrative regulation;

(b) Submitted false or misleading information on any document provided to the cabinet, including applications for certification or renewal;

(c) Cheated on an examination, or violated confidentiality of examination questions;

(d) Used fraud or deception in the course of employment as an operator;

(e) Failed to use reasonable care or judgment in the course of employment as an operator, failed to apply knowledge or ability in the performance of duties, was incompetent in the performance of duties, or was unable to properly perform duties;

(f) Willfully or negligently caused or violated the requirements of KRS Chapters 223 or 224 or 401 KAR Chapter 8; or

(g) Willfully or negligently falsified or failed to maintain or submit records required by 401 KAR Chapter 8. ~~(practiced fraud or deception in obtaining certification or filing cabinet mandated reports; has not used reasonable care or judgment in the performance of duties; has failed to apply knowledge in the performance of duties; or is incompetent, unable or unwilling to properly perform duties.)~~

(2) ~~((4))~~ Sanctions. The disciplinary action shall be determined by the cabinet in accordance with the review procedures in subsection (3) ~~((2))~~ of this section, and may take the form of the following sanctions according to subsection (4) ~~((3))~~ of this section, depending on the severity, duration, and number of the violations. The sanctions may include, but are not limited to:

(a) Probation for a specified period of time, not to exceed one (1) year;

(b) Suspension of the operator's certificate for a specified period of time, not to exceed one (1) year, during which the certificate shall be considered void;

(c) Temporary or permanent revocation of the operator's certification (temporary revocations shall not be less than one (1) year or more than four (4) years in duration); and ~~(or)~~

(d) Civil or criminal penalties against the operator.

(3) ~~((2))~~ Initial review procedures. Written complaints received by the board or cabinet on a certified operator, unless duplicitous or frivolous, shall be reviewed at the next regularly scheduled board meeting. If the charges warrant further investigation, the certified operator may be advised to appear before the board to discuss the charges levied. Upon completion of the review, the board shall make a recommendation to the cabinet regarding the operator's certification status. The board may recommend that no action be taken or that the cabinet impose a sanction identified in subsection (2) ~~((1))~~ of this section, or any other action.

(4) ~~((3))~~ Cabinet action. The cabinet shall review the evidence presented and the board's recommendations. Upon completion of the review, the cabinet shall ~~(will)~~ initiate the recommended action or notify the board as to why an alternative action was taken. The certified operator and his employer shall be advised by certified mail

of the action, the reasons outlined for the action, and the length of time for which the sanction shall apply. A certified operator whose certificate has been suspended or revoked shall not perform direct responsible charge operator duties during the period that the disciplinary action remains in effect. If a certification is permanently revoked, the operator shall be ineligible for future certification as a water treatment plant or distribution system operator. Experience gained during a suspension or temporary or permanent revocation shall not be included toward meeting the requirements of Section 8 of this administrative regulation. An action taken by the cabinet pursuant to this administrative regulation shall not preclude the cabinet from pursuing additional civil or criminal action.

(5) ~~((4))~~ Sanction review and removal. During the operator's probation, suspension, or temporary revocation, the board and cabinet shall ~~(will)~~ monitor the operator's work activities. At the end of the sanction period, the board will recommend to the cabinet whether the sanction should be lifted or whether additional action is necessary against the certified operator.

(6) ~~((5))~~ Appeal procedures. An operator who considers himself aggrieved by the disciplinary action may file a petition for hearing with the cabinet pursuant to KRS 224.10-420(2).

Section 6. Classification of Water Treatment Plants and Water Distribution Systems. The classification system shall be ~~(is)~~ structured with four (4) classes of water treatment plants, Class I, II, III, or IV, which includes two (2) subclasses of treatment types, A or B, and four (4) classes of water distribution systems, Class I, II, III, or IV. Class IV is the highest class and subclass A is the highest subclass. Combined treatment and distribution classifications also exist for Class I and II systems: Class IA-D, IB-D, and IIB-D. The class structure relates to and corresponds with the operator classifications outlined in Section 7 of this administrative regulation. Operators with separate treatment and distribution certifications may supervise a facility with a combined classification if the certifications are equal to or higher than the system classification.

(1) Public water system classifications ~~(Classification)~~ shall be established in accordance with the classes listed in subsections (2) and (3) ~~(subsection (2))~~ of this section.

(a) However, the cabinet may make changes in system classifications in accordance with needs created by particular complexities of a public water system by reason of special features of design, or by reason of a source of supply that has characteristics that may make operation more difficult than normal, or a combination of these conditions. Due notice of a change shall be given to the owner of the public water system.

(b) The cabinet shall reclassify a nontransient noncommunity water system that treats water primarily for its industrial process with limited employee use if the calculated portion not used for the industrial process averages less than ten (10) percent of the average daily production averaged over the most recent twelve (12) months.

(2) Water treatment plants or systems shall be classified as one (1) of four (4) classes, based on the cabinet-assigned design capacity for finished water production that the treatment plant is able to produce in twenty-four (24) continuous hours of production, taking all limiting factors into consideration, and the treatment process employed. Public water systems with more than one (1) treatment plant shall have each treatment plant classified in accordance with this section, and each plant shall be operated in accordance with Section 1 of this administrative regulation.

(a) The treatment plant classifications and designated capacities shall be:

1. Class I: all treatment plants which have an assigned design capacity of less than 50,000 gallons of water per day;

2. Class II: all treatment plants which have an assigned design capacity of 50,000 or more gallons of water per day but less than 500,000 gallons per day;

3. Class III: all treatment plants which have an assigned design

capacity of 500,000 or more gallons of water per day but less than 3,000,000 gallons per day; and

4. Class IV: all treatment plants which have an assigned design capacity of 3,000,000 or more gallons of water per day.

(b) Each class shall be subdivided according to the type of treatment used by the plant. The subclasses shall be:

1. A: water treatment plants which use gravity filtration, except slow sand filtration as described in 401 KAR 8:150, as a part of their treatment scheme; and

2. B: water treatment plants which use treatment processes other than gravity filtration. This includes the use of slow sand filtration as described in 401 KAR 8:150 for Class I and II water treatment plants.

(c) Combination treatment and distribution system classifications. Class IA-D, IB-D, and IIB-D systems shall be classified as combined treatment and distribution systems.

(3) Water treatment plant or system classifications.

(a) Class I.

1. Class IA-D. Systems which have an assigned design capacity of less than 50,000 gallons of water per day using gravity filtration, except for slow sand filtration, as a part of their treatment scheme and are responsible for the distribution of treated water. [Plants using only physical treatment and disinfection, if the treatment plant operator is also responsible for the distribution system, and which serve a population less than 500.]

2. Class IB-D. Systems which have an assigned design capacity of less than 50,000 gallons of water per day using slow sand filtration or treatment processes other than gravity filtration, and are responsible for distribution of treated water. [Plants using only disinfection, if the treatment plant operator is also responsible for the distribution system, and which serve a population less than 500.]

(b) Class II:

1. Class IIA. Plants which have an assigned design capacity of 50,000 or more gallons of water per day but less than 500,000 gallons per day using gravity filtration, except slow sand filtration, as a part of their treatment scheme. [physical and chemical treatment, including disinfection, and serving a population less than 3,000.]

2. Class IIB-D. Systems which have an assigned design capacity of 50,000 or more gallons of water per day but less than 500,000 gallons per day using slow sand filtration or treatment processes other than gravity filtration, and are responsible for the distribution of treated water. [Plants using only physical treatment and disinfection, if the treatment plant operator is also responsible for the distribution system, and which serve a population equal to or greater than 500 but less than 3,000.]

3. Class IIC-D. Plants using only disinfection, if the treatment plant operator is also responsible for the distribution system, and which serve a population equal to or greater than 500 but less than 3,000.]

(c) Class III:

1. Class IIIA. Plants which have an assigned design capacity of 500,000 or more gallons of water per day but less than 3,000,000 gallons of water per day using gravity filtration, except slow sand filtration, as a part of their treatment scheme. [physical and chemical treatment, including disinfection, and serving a population equal to or greater than 3,000 and less than 15,000.]

2. Class IIIB. Plants which have an assigned design capacity of 500,000 or more gallons of water per day but less than 3,000,000 gallons of water per day using treatment processes other than gravity filtration. [only physical treatment and disinfection, and serving a population equal to or greater than 3,000 and less than 15,000.]

3. Class IIIC. Plants using only disinfection, and serving a population equal to or greater than 3,000 and less than 15,000.]

(d) Class IV.

1. Class IVA. Plants which have an assigned design capacity of 3,000,000 or more gallons of water per day using gravity filtration, except slow sand filtration, as a part of their treatment scheme.

2. Class IVB. Plants which have an assigned design capacity of

3,000,000 or more gallons of water per day using treatment processes other than gravity filtration. [serving a population equal to or greater than 15,000.]

(4) [(3)] Water distribution systems. Populations shall be determined as specified in 401 KAR 8:200.

(a) Class ID. Distribution systems serving a population less than 1,500.

(b) Class IID. Distribution systems serving a population equal to or greater than 1,500 and less than 15,000.

(c) Class IIID. Distribution systems serving a population equal to or greater than 15,000 and less than 50,000.

(d) Class IVD. Distribution systems serving a population equal to or greater than 50,000.

(5) [(4)] Limited. A limited classification is available to water treatment facilities for schools and semipublic water systems.

(6) [(5)] Special. Special designations may be added to any certificate if necessary to show competency of the operator for a parameter of treatment or operation not covered by the basic requirements for standard classification set forth in this section.

(7) Public water systems which were reclassified pursuant to this administrative regulation as in effect on October 7, 1996 shall comply with the requirements of Section 1 of this administrative regulation by October 7, 1997. [This extension of compliance shall [does] not preclude the approval of a provisional staffing plan as provided for in Section 1(8) and (9) of this administrative regulation.]

Section 7. Classification of Water Treatment Plant and Water Distribution System Operators. Thirteen (13) subclasses [Nine (9) classes] of certified operators are established and designated as Class I through Class IV for water treatment, Class I through Class IV for distribution, and limited. Each operator classification, except for limited, relates directly to the corresponding classification of water treatment plant or water distribution system outlined in Section 6 of this administrative regulation.

Section 8. Operator Qualifications: Experience, Education and Equivalencies. (1) Requirements. Applicants shall be examined by the cabinet regarding education, experience, and knowledge, as related to the classification of water treatment plants or water distribution systems for which the application applies. Applicants shall pass the required written examination unless granted a waiver to take an oral examination in accordance with Section 3(2) of this administrative regulation.

(2) Classification of water treatment plant operators. Operators shall comply with the experience and educational requirements of this subsection prior to applying for certification.

(a) Class IA-D [and Class IB-D]:

1. Completion of high school or general education development (GED) efficiency; and
2. One (1) year of experience operating [acceptable operation of] a Class IA-D or higher public water system.

(b) Class IB-D:

1. Completion of high school or GED efficiency; and
2. One (1) year of experience operating [acceptable operation of] a Class IB-D or higher public water system.

(c) Class IIA:

1. Completion of high school or GED efficiency; and
2. Two (2) years of experience operating [acceptable operation of] a public water treatment plant [system], with six (6) months of that experience in a Class IIA, IIIA or IVA treatment plant.

(d) [(e)] Class IIB-D [and Class IIC-D]:

1. Completion of high school or GED efficiency; and
2. [For Class IIB-D,] Two (2) years of experience operating [acceptable operation of] a public water system, with six (6) months of that experience in a Class IA-D, [IIA,] IIB-D, or higher [IIIA, IIB, or IVA] treatment system. [plant; or]

3. For Class IIC-D, two (2) years of acceptable operation of a

public water system with six (6) months in a Class II, III or IV water treatment plant.]

(e) ~~[(d)]~~ Class IIIA:

1. Completion of high school or GED efficiency; and
2. Three (3) years of experience operating ~~[acceptable operation of]~~ a public water treatment plant ~~[system]~~ with one (1) year in a Class IIA, IIIA, or IVA water treatment plant.

(f) ~~[(e)]~~ Class IIIB:

1. Completion of high school or GED efficiency; and
2. Three (3) years of experience operating ~~[acceptable operation of]~~ a public water treatment plant ~~[system]~~ with one (1) year in a Class IIA, IIB-D, IIIA, IIIB, ~~[or]~~ IVA, or IVB water treatment plant.

~~[(f)]~~ Class IIIC:

1. ~~Completion of high school or GED efficiency; and~~
2. ~~Three (3) years of acceptable operation of a public water system with one (1) year in a Class II, III, or IV water treatment plant.]~~

(g) Class IVA:

1. A baccalaureate degree from an accredited college or university; and
2. One (1) year ~~[Three (3) years]~~ of experience operating ~~[acceptable operation of]~~ ~~[a public water treatment plant [system], with two (2) years of that experience being in]~~ a Class IIIA or IVA water treatment plant.

(h) Class IVB:

1. A baccalaureate degree from an accredited college or university; and
2. One (1) year ~~[Three (3) years]~~ of experience operating ~~[acceptable operation of]~~ ~~[a public water treatment plant, with two (2) years of that experience being in]~~ a Class IIIA, IIIB, IVA, or IVB water treatment plant.

(i) Limited: An operator of a water treatment facility for a school or for a semipublic water supply shall be entitled to apply for a limited certificate of competency for his particular facility, if he has demonstrated to the cabinet that he has the knowledge and experience required to properly operate the particular water treatment facility for which he is responsible.

(3) Classification of water distribution system operators. Operators shall comply with the experience and educational requirements of this subsection prior to applying for certification.

(a) Class ID:

1. Completion of high school or GED efficiency; and
2. One (1) year of experience operating ~~[acceptable operation of]~~ a distribution system.

(b) Class IID:

1. Completion of high school or GED efficiency; and
2. Two (2) years of experience operating ~~[acceptable operation of]~~ a distribution system with six (6) months in a Class IID, IIID or IVD distribution system.

(c) Class IIID:

1. Completion of high school or GED efficiency; and
2. Three (3) years of experience operating ~~[acceptable operation of]~~ a distribution system, with one (1) year of that experience in a Class IID, IIID or IVD distribution system.

(d) Class IVD:

1. A baccalaureate degree from an accredited college or university; and
2. One (1) year ~~[Three (3) years]~~ of experience operating ~~[acceptable operation of]~~ ~~[a distribution system, with one (1) year of that experience being in]~~ a Class IIID or IVD distribution system.

(4) Substitutions.

(a) If applicable, education may be substituted for a portion of the required experience, as specified below:

1. No substitution for Class I or IV.
2. Successful completion of one (1) year of college work ~~[(limited to curricula in environmental engineering, environmental technology or related scientific fields)]~~ may be considered as equivalent to one (1) year of experience, limited to one (1) year for Class II and ~~[]~~ two

(2) years for Class III, ~~and two (2) years for Class IV].~~

3. Education applied to the experience requirement shall not be applied to the educational requirement or used as continuing education hours toward certification renewal.

(b) If applicable, the cabinet may authorize experience to be substituted for education requirements as specified below:

1. One (1) year experience in active operation of a water system at a Class II level or above shall be considered equivalent to one (1) year of college. Four (4) years of experience may be substituted for the requirement of a college degree by a high school graduate or recipient of a GED.

2. One (1) year of board-approved experience may be considered equivalent to one (1) year of high school. Four (4) years of board-approved experience may be considered equivalent to a high school diploma or a GED, subject to the approval of the board. Operators requesting this substitution shall submit a written request to the cabinet and may be requested to appear before the board.

3. Experience applied to education requirements shall not be applied to the experience requirement.

(c) Substitutions of related experience for treatment plant and distribution experience.

1. Experience gained in distribution system operation may be credited as specified in paragraph (a) of this subsection toward fulfillment of the treatment plant experience requirement as follows: two (2) years of distribution experience ~~[in a related field]~~ may be considered equivalent to one (1) year of treatment experience.

2. Experience gained in drinking water treatment plant operation may be credited as specified in paragraph (a) of this subsection toward fulfillment of the distribution system experience requirements as follows: one (1) year of drinking water treatment experience ~~[in a related field]~~ shall ~~[may]~~ be considered equivalent to one (1) year of distribution experience.

3. Partial credit, as determined by the board, may be given for operating experience in maintenance, laboratories, other work of drinking water treatment or distribution systems and allied trades.

(d) Substitutions for formal education may be as follows: training earned at ~~[credits for]~~ board-approved operator training schools, seminars, and technical courses may be substituted for high school and college requirements upon approval of the board. One (1) year of college work shall equal thirty (30) semester hours or forty-five (45) quarter hours. Six (6) classroom hours of board-approved courses shall equal one (1) training credit, and forty-five (45) training credits shall equal eighteen (18) semester hours of college or one (1) year of high school. One (1) continuing education unit (CEU) shall equal ten (10) classroom ~~[training credit]~~ hours.

Section 9. Documents Incorporated by Reference. The following documents are incorporated by reference and are available for public inspection and copying, subject to the copyright laws, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday, at the Division of Water, 14 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601:

(1) "Drinking Water or Wastewater Operator Certification Application", "DEP 6047 (8/96)", available from the Kentucky Natural Resources and Environmental Protection Cabinet, Division of Water, Frankfort, Kentucky, [January 1992].

(2) "Application for Certificate Renewal", "DEP 6007 (8/96)", available from the Kentucky Natural Resources and Environmental Protection Cabinet, Division of Water, Frankfort, Kentucky, [January 1992].

Section 10. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

JAMES E. BICKFORD, Secretary

APPROVED BY AGENCY: April 9, 1997

FILED WITH LRC: April 10, 1997 at 9 a.m.

JUSTICE CABINET
Department of Corrections
Division of Adult Institutions
(As Amended)

501 KAR 6:040. Kentucky State Penitentiary.

RELATES TO: KRS Chapters 196, 197, 439
 STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Kentucky State Penitentiary.

Section 1. (1)(a) Kentucky State Penitentiary policies and procedures, May 14, 1997 [~~November 13, 1996~~] are incorporated by reference.

(b) They may be inspected, copied, or obtained at the Office of the General Counsel, Department of Corrections, State Office Building, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(2) Kentucky State Penitentiary policies and procedures include:

KSP 01-02-01	Public Information and Media Communications
KSP 020000-15	Legal Assistance
KSP 02-01-01	Inmate Commissary Program (<u>Amended 5/14/97</u>)
KSP 02-08-01	Inventory Records and Control [(Amended 11/13/96)]
KSP 02-11-01	Requisition and Purchase of Supplies and Equipment
KSP 02-12-01	Inmate Personal Funds
KSP 05-02-01	Management Information System
KSP 06-01-01	Inmate Records [(Amended 11/13/96)]
KSP 09-08-01	Searches and Preservation of Evidence [(Amended 11/13/96)]
KSP 10-02-01	Special Management Units: Assignment, Classification Review and Release
KSP 10-02-05	Special Security Unit [(Amended 11/13/96)]
KSP 10-04-01	Special Needs Inmates
[KSP 100000-21]	Photocopies for Nonindigent Inmates with Special Court Deadlines (Deleted 7/8/97)
KSP 11-03-01	Therapeutic Diets
KSP 11-06-01	Food Service Inspections
KSP 120000-11	Religious Services - Staffing
KSP 120000-18	Religious Services - Religious Programming
KSP 120000-20	Marriage of Inmates
KSP 13-01-01	Pharmacy Procedures
KSP 13-02-01	Hospital Services
KSP 13-02-02	Sick Call
KSP 13-02-03	Health Evaluations
KSP 13-02-04	Emergency Medical Procedure
KSP 13-02-05	Consultations
KSP 13-02-08	Medical Records
KSP 13-02-09	Psychiatric and Psychological Services
KSP 13-02-11	Psychological and Psychiatric Treatment Upon Release
KSP 13-02-12	Dental Services for Special Management Units
KSP 13-02-13	Optometric Services
KSP 14-03-01	Marriage of Inmates
KSP 14-04-01	Legal Services
KSP 14-06-01	Inmate Grievance Procedure

KSP 15-01-01	Inmate Grooming and Dress Code (<u>Amended 5/14/97</u>)
KSP 15-03-01	Award of Meritorious Good Time
KSP 15-06-01	Due Process/Disciplinary Procedures
KSP 16-01-01	Visiting Program
KSP 16-02-01	Inmate Correspondence
KSP 16-03-02	Inmate Telephone Access (<u>Amended 5/14/97</u>)
KSP 16-04-01	Inmate Packages
KSP 17-01-01	Inmate Personal Property [(Amended 11/13/96)]
KSP 17-01-02	Disposition of Unauthorized Property [(Amended 11/13/96) (Renumbered from 100000-03)]
KSP 17-01-03	Procedures for Providing Clothing, Linens and Other Personal Items
KSP 17-01-04	Property Room, Clothing Storage and Property Inventory Control [(Amended 11/13/96)]
KSP 18-01-01	General Guidelines and Functions of the Classification Committee [(Amended 11/13/96)]
KSP 18-01-02	Functions of the Classification Committee
KSP 18-06-01	Classification Document [(Amended 11/13/96)]
KSP 18-10-01	Parole Progress Report
KSP 18-11-01	Transfers to Kentucky Correctional Psychiatric Center (KCPC)
KSP 18-15-01	Protective Custody Unit [(Amended 11/13/96)]
KSP 19-04-01	Inmate Work Programs: Safety Inspections of Inmate Work Locations [(Amended 11/13/96)]
KSP 19-04-02	Unit Classification Committee: Inmate Work Assignments
KSP 19-05-01	Correctional Industries [(Amended 11/13/96)]
KSP 20-04-01	Educational Programs
KSP 22-04-01	Arts and Crafts Program
KSP 25-04-01	Inmate Furloughs
KSP 25-08-01	Extended Furloughs
KSP 25-10-01	Discharge of Inmates by Shock Probation

DOUG SAPP, Commissioner

APPROVED BY AGENCY: May 12, 1997

FILED WITH LRC: May 14, 1997 at noon

TRANSPORTATION CABINET
Department of Highways
Division of Aeronautics
Kentucky Airport Zoning Commission
(As Amended)

602 KAR 50:090. Permit application procedures.

RELATES TO: KRS 183.869, 183.870, 183.871

STATUTORY AUTHORITY: KRS 183.861

NECESSITY, FUNCTION, AND CONFORMITY: KRS 183.861 allows the Kentucky Airport Zoning Commission to regulate the use of land within and around all publicly-owned airports within Kentucky. This administrative regulation is promulgated to outline [the administrative regulation outlines] the procedure that a person shall follow in order to obtain a permit or tentative approval to erect or alter a structure, and defines the authority of the Administrator of the Kentucky Airport Zoning Commission to reject or approve applications for permits and provide for the processing of an application for a permit.

Section 1. (1) Every person who is required by 602 KAR 50:030 [~~the administrative regulations of this commission~~] to obtain a permit to construct or alter a structure shall send a signed and completed Form TC 56-50, "Application for Permit to Alter or Construct a Structure", revised effective January 1996 [~~May, 1989~~], to the Administrator of the Kentucky Airport Zoning Commission, Division [~~Office~~] of Aeronautics, 125 Holmes Street, Frankfort, Kentucky 40622.

(2) Except as set forth in Section 3 of this administrative regula-

~~tion. [The form required by subsection (1) of this section is incorporated by reference as a part of this administrative regulation. Copies may be obtained from the administrator. His address is Office of Aeronautics, 421 Ann Street, Frankfort, Kentucky 40622. His telephone number is (502) 564 4480. The business hours of the Office of Aeronautics are 8 a.m. to 4:30 p.m. eastern time, on those days which state government routinely functions.~~

(3) the application shall be submitted at least ninety (90) days prior to the date the proposed construction or alteration is scheduled to begin.

Section 2. (1) Upon receipt of the application, the administrator shall review the application to determine if all required information has been submitted.

(2) If the application is incomplete, the administrator shall:

(a) Reject it;

(b) ~~[the application and]~~ Return it ~~[the application]~~ to the person who submitted it; and

(c) ~~Provide [submitting the application with]~~ a statement of the additional information that is required ~~[by the commission]~~ for a complete application.

(3) ~~[Section 3-(4)]~~ If the application is complete, the administrator shall conduct an aeronautical study for the purpose of determining whether to recommend to the commission that a permit be issued.

~~[(2)(a) The administrator may approve an application for a permit to alter or construct a structure that is not by 602 KAR 50:070 an obstruction to air navigation and which will not adversely affect the safety of air navigation or when he has determined that the structure would be shielded by existing structures of a permanent and substantial character, or by natural terrain or topographic features of equal or greater height it is evident that the proposed structure so shielded will not adversely affect the safety of air navigation.]~~

(4) ~~[(b)]~~ The preliminary recommendation of the administrator for approval or disapproval may be furnished to the applicant prior to consideration of the application by the commission.

(5) ~~[However,]~~ The commencement of any construction or erection of the structure prior to final consideration by the commission and the issuance of a permit shall be at the sole risk of the applicant.

(6) The commission, its members and its administrator shall not be responsible or liable in any manner for any work performed prior to the issuance of a permit.

Section 3. (1) If approval for a temporary structure is being sought, the applicant shall furnish to the administrator an affidavit or sworn statement detailing the conditions and reasons for the extraordinary measures being requested or provide any other information requested by the administrator.

(2) ~~[(e)]~~ The administrator may approve an application for a temporary structure that will be in existence for ~~[such]~~ a short duration if ~~[that]~~ it will no longer occupy the same airspace at the time a formal application can be considered by the commission.

(3) This approval **shall not** ~~[may]~~ be granted ~~[only]~~ if it is evident that the proposed temporary structure will ~~[not]~~ adversely affect the safety of air navigation.

Section 4. (1) [(d) The commission may grant tentative approval of an application even though the time for filing objections to the application has not expired. This tentative approval may be granted if it appears to the commission that the proposed structure will not adversely affect the safety of air navigation, and, if no objections were to be received, a permit would be issued by the commission. However, the commencement of any construction or erection of the proposed structure prior to the final consideration by the commission and the issuance of a permit shall be at the sole risk of the applicant. The commission, its members and its administrator shall not be responsible or liable in any manner for any work performed prior to the issuance of a permit.

~~(e) If approval for a temporary structure or tentative approval of a permanent structure is being sought, the applicant shall furnish to the administrator affidavits or sworn statements detailing the conditions and reasons for the extraordinary measures being requested or provide any other information requested by the commission or its administrator.~~

~~(f) The commission may reject any recommendation of the administrator or withdraw any tentative approval previously granted after final consideration of the application. Any reliance placed upon any recommendation of the administrator or any tentative approval of the commission shall be at the applicant's own risk.~~

(3) The administrator shall submit the application, the results of his aeronautical study and his recommendation for commission action to the commission at its next meeting.

(2) ~~[(4)]~~ At least twenty (20) days prior to the commission meeting at which the application is to be considered, the administrator shall circulate a copy of the application and the conclusions of his aeronautical study to any interested parties, including ~~[, but not limited to,]~~ local airport boards, municipal and county governments' officials, airport owners and operators.

(3)(a) An interested party ~~[(5) Any interested parties]~~ shall be permitted to file with the commission written objections to or remarks about the application ~~[approval of the applications]~~.

(b) The objections or remarks shall be filed with the commission not ~~[ne]~~ later than the date for filing established in the circulated copy of the application.

(c) ~~[However,]~~ The date by which the objections or remarks shall be received by the administrator shall provide all interested parties with at least eighteen (18) days from the date the administrator mailed the notice by first class mail.

Section 5. (1) [(6)] The application normally shall be considered at the first meeting of the commission after the expiration of the established period in which an interested party could file an objection to or remarks about the application.

(2) A copy of the commission's decision shall be mailed to the applicant and any other interested parties who filed an objection to or remarks about the application.

Section 6. (1) If tentative approval of a permanent structure is being sought, the applicant shall furnish to the administrator an affidavit or sworn statement detailing the conditions and reasons for the extraordinary measures being requested or provide any other information requested by the commission or its administrator.

(2) The commission may grant tentative approval of an application if:

(a) The time for filing an objection to the application has not expired, but it appears to the commission that an objection will not be filed; and

(b) It appears to the commission that the proposed structure will not adversely affect the safety of air navigation; or

(c) Other special conditions imposed in the permit have been met.

(3) The commencement of any construction or erection of the proposed structure the based on the issuance of tentative approval by the commission prior to the issuance of a permit shall be at the sole risk of the applicant.

(4) The commission, its members, and its administrator shall not be responsible or liable in any manner for any work performed prior to the issuance of a permit.

Section 7. Material Incorporated by Reference. (1) Transportation Cabinet Form TC 56-50, "Application for Permit to Alter or Construct a Structure", revised effective January 1996 is incorporated by reference.

(2) A copy of Transportation Cabinet Form TC 56-50 may be viewed, copied, or obtained from the Zoning Administrator, Division of Aeronautics, 125 Holmes Street, Frankfort, Kentucky 40622. The

ADMINISTRATIVE REGISTER - 341

hours of operation are 8 a.m. to 4:30 p.m. weekdays. The telephone number is (502) 564-4480. The fax number is (502) 564-7953.

JAMES C. CODELL, III, Secretary, Chair
APPROVED BY AGENCY: April 30, 1997
FILED WITH LRC: May 14, 1997 at 1 p.m.

TRANSPORTATION CABINET Department of Highways Division of Aeronautics Kentucky Airport Zoning Commission (As Amended)

602 KAR 50:100. Standards for marking or lighting structures.

RELATES TO: KRS 183.861 to 183.990, 14 CFR Part 77

STATUTORY AUTHORITY: KRS 183.861

NECESSITY, FUNCTION, AND CONFORMITY: KRS 183.861

allows the Kentucky Airport Zoning Commission to regulate the use of land within and around all publicly-owned airports within Kentucky. This administrative regulation is promulgated to describe the standards for the marking or lighting of structures which penetrate the airspace under the jurisdiction of the Kentucky Airport Zoning Commission. The federal regulations relating to this administrative regulation are applicable to all public use airports. However, for Kentucky Airport Zoning purposes, KRS 183.861 only allows their applicability to publicly-owned airports. Therefore, there are privately-owned, public-use airports in Kentucky which are not protected by the Kentucky Airport Zoning Commission.

Section 1. ~~[(4)]~~ The Advisory Circular No. AC 70/7460-1J [70/7460-1H], Obstruction Marking and Lighting, issued by the Federal Aviation Administration effective January 1, 1996 ~~[as amended on November 26, 1991, is hereby adopted and incorporated by reference, except as otherwise provided in the administrative regulations of the commission. The Advisory Circular]~~ shall govern the marking and lighting of structures which:

- (1) Penetrate the jurisdictional airspace of the commission; or
- (2) Have been ~~[which are]~~ determined by the commission to be an obstruction to safe air navigation.

~~[(2) The above mentioned material has been published by the Federal Aviation Administration and a copy may be obtained from the Administrator, Kentucky Airport Zoning Commission, 421 Ann Street, Frankfort, Kentucky 40622. The telephone number of the commission is (502) 564-4480. The business hours of the commission are 8 a.m. to 4:30 p.m. eastern time on those days which state government routinely functions.]~~

Section 2. A [Every] person who is issued a permit to alter or construct a structure shall mark or light the structure in accordance with the applicable standards of the Federal Aviation Advisory Circular, "Obstruction Marking and Lighting" [incorporated by reference in Section 1 of this administrative regulation], unless the commission determines that the absence of the marking or lighting will not impair the safety of air navigation.

Section 3. Any structure that exceeds 200 feet above ground level shall be obstruction marked or lighted in accordance with the standards of the Federal Aviation Advisory Circular, "Obstruction Marking and Lighting" ~~[advisory circular incorporated by reference under Section 1 of this administrative regulation]~~, unless the commission determines the absence of the marking or lighting will not impair the safety of air navigation.

Section 4. (1) A holder of a commission permit that requires obstruction marking and lighting as a condition for the approval

of the application may request a change in that requirement to maintain or improve the system based upon technological advances.

(2) Before changes or alterations are made to the previously approved obstruction marking or lighting system, a request shall be:

(a) Made in writing; and

(b) Approved by the commission. [A [Any] holder of a commission permit that requires obstruction marking and lighting, as a condition for the approval of the application, may request a change in the obstruction marking or lighting requirements in order to maintain or improve the existing obstruction marking or lighting system based upon technological advances. The request shall be in writing and approved by the commission prior to any changes or alterations being made to the previously approved obstruction marking or lighting system.]

Section 5. If an existing, permitted and standing facility is abandoned, the permit holder shall continue to maintain obstruction marking or lighting which was required by the commission unless the facility is physically removed.

Section 6. During the construction or alteration of a structure, once any portion of the structure exceeds 200 feet above ground level, it shall be obstruction marked and lighted in accordance with the standards of the Federal Aviation Advisory Circular, "Obstruction Marking and Lighting" ~~[Advisory Circular incorporated by reference under Section 1 of this administrative regulation]~~, unless the commission determines the absence of this marking or lighting will not impair the safety of air navigation and so states when the permit is issued.

Section 7. (1) Advisory Circular No. AC 70/7460-1J, Obstruction Marking and Lighting, issued by the Federal Aviation Administration effective January 1, 1996 is incorporated by reference.

(2) Advisory Circular No. AC 70/7460-1J, Obstruction Marking and Lighting may be viewed or copied from the Zoning Administrator, Division of Aeronautics, 125 Holmes Street, Frankfort, Kentucky 40622. The hours of operation are 8 a.m. to 4:30 p.m. weekdays. The telephone number is (502) 564-4480. The fax number is (502) 564-7953.

(3) Advisory Circular No. AC 70/7460-1J, Obstruction Marking and Lighting may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, D.C. 20402-9328.

JAMES C. CODELL, III, Secretary, Chair
APPROVED BY AGENCY: April 30, 1997
FILED WITH LRC: May 14, 1997 at 1 p.m.

TRANSPORTATION CABINET Department of Highways Division of Aeronautics Kentucky Airport Zoning Commission (As Amended)

602 KAR 50:120. Reconsideration and administrative hearing procedures.

RELATES TO: KRS 183.871

STATUTORY AUTHORITY: KRS 183.861

NECESSITY, FUNCTION, AND CONFORMITY: To provide for general procedures for a request for reconsideration and for the conduct of all hearings on any petition to the commission.

Section 1. Request for reconsideration of an action taken by the commission shall be as follows:

(1) A person who wishes to provide additional information, further explain the information previously presented to the commission, request reconsideration, or otherwise discuss a matter with the commission shall notify the administrator of his intention to attend a meeting of the commission.

(2) The notice shall be in writing and filed within thirty (30) days of the mailing of the document formalizing the commission's action to appropriate parties.

(3) The administrator shall place the issue on the agenda for the next commission meeting at which he is able to provide to all interested parties a ten (10) day written notice of the placement of the issue on the agenda of the commission.

Section 2. Request for a hearing shall be accomplished as follows:

(1) A [With the exception of those actions taken under 602 KAR 50:115, any] person aggrieved by an [any] action taken by the commission with respect to any application for a permit, request for adoption of airport zoning map, notice of violation, or any orders or rulings issued pursuant to the commission's administrative regulations may petition the commission in writing for an administrative hearing.

(2) The petition, which may be in the form of a letter, shall identify the action taken by the commission for which a hearing is sought and it shall state specifically the grounds for the request in addition to a statement of the relief desired.

(3) The petition shall be filed within thirty (30) days of the mailing of the document formalizing the commission's action to appropriate parties or if the person requested the opportunity to appear before the commission, within thirty (30) days of the action taken by the commission after the petitioner's appearance before the commission. The document may be executed by either the administrator or the chairman of the commission.

(4) Once a petition for a hearing is received, the administrator shall notify all other interested parties of the receipt of the petition for a hearing. Other interested parties may include but shall not be limited to the applicant, local zoning body, local air board, airport owner and other identifiable person or persons who exhibit an interest in the commission's decision.

(5) The administrator shall request the Transportation Cabinet's Office of General Counsel to assign [ef] a hearing officer. The hearing and subsequent actions shall conform to the requirements of KRS Chapter 13B. [within thirty (30) days of the receipt of the petition establish a time and place for the hearing to be conducted and shall notify all interested parties of the time and place of the hearing.]

(6) Hearings shall be scheduled to be held within sixty (60) days of the receipt of the petition unless there are exceptional circumstances which would create an undue hardship upon one (1) or more of the parties. Notice of the hearing shall be given by mailing a copy of the order establishing the hearing at least twenty (20) days prior to the date set for the hearing.]

Section 3. (1) [(7)] If the commission deems it in the best interest of the public [whether or not requested by the parties], it may require that a public discussion of an issue under consideration [the hearing] be conducted prior to taking any action on an [the] application, permit, zoning map, or other item before the commission for consideration [ete].

(2) The administrator shall, at least ten (10) days prior to the meeting, notify all interested parties of the date, time, and location of the commission meeting at which the public discussion will take place.

(3) An [Any] action rendered by the commission as a result of a public discussion [hearing] conducted under this subsection shall constitute a final agency action from which an appeal may be taken pursuant to Section 2 of this administrative regulation.

[Section 2. The procedures that follow shall be observed during

the hearing process:

(1) The hearing shall be conducted in a formal manner.

(2) A transcript or stenographic record of the hearing shall be taken. The reporter shall furnish an original and one (1) copy of the transcript to the commission. Unless otherwise agreed, the cost of transcribing the evidence and of furnishing an original and one (1) copy to the commission shall be borne by the petitioner.

(3) Opportunity shall be given to the petitioner, the applicant and all other interested persons to produce witnesses, present evidence or raise other points of issue.

(4) The burden of proof concerning any action to be taken by the commission as a result of the hearing shall be upon the petitioner.

(5) All parties may be represented by counsel.

(6) The chairman of the commission or his designated representative shall preside at the hearing and shall rule on any objection or question that arises. A majority of the commission may overrule or modify any ruling of the chairman.

(7) The administrator of the commission shall open the hearing by presenting the petition for the hearing, documents representing the action taken by the commission that prompted the petition for a hearing and conclusions resulting from any aeronautical study conducted.

(8) Unless there are exceptional conditions that would warrant otherwise, the petitioner may make an opening statement outlining its position and any other party who desires the same relief shall next be given the opportunity to present an opening statement. Then the adverse party may make an opening statement outlining its position, followed by any other parties seeking the same relief.

(9) After all opening statements, the petitioner shall present its evidence and witnesses in support of its claim followed by other parties seeking similar action by the commission. Following the conclusion of the evidence presented by the petitioner and all other parties similarly aligned, the adverse parties shall be afforded the opportunity to present their evidence and witnesses.

(10) Each party shall have the right to cross-examine any witness offered by any other party.

(11) Formal rules of evidence used by the courts shall apply.

(12) The parties may by stipulation enter into the record any agreed facts, and it is desirable that the facts agreed upon be entered by stipulation whenever practical.

(13) Witnesses shall not be permitted to give opinion evidence unless they have first been qualified to show their special familiarity and knowledge with the desired subject.

(14) At the conclusion of the presentation of all evidence, the parties may offer closing statements to the commission. The order of presentation shall be in reverse of the opening statements unless determined otherwise by the chairman of the commission.

(15) The commission may require the filing of briefs in which the time of filing, length of briefs and replies, shall be stated at the conclusion of the hearing.

(16) Subsequent to the closing statements, the commission shall consider all relevant, competent, and material evidence and make the necessary findings of facts and conclusions which shall constitute a final decision of the commission. The findings and conclusions of the commission shall be signed by the chairman and a copy sent to each party that appeared at the hearing.

Section 3. Appeals from any final decision or order of the commission may thereafter be made to the Franklin County Circuit Court in accordance with the procedures set forth in KRS 183.620.]

JAMES C. CODELL, III, Secretary, Chair

APPROVED BY AGENCY: April 30, 1997

FILED WITH LRC: May 14, 1997 at 1 p.m.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(As Amended)

704 KAR 20:696. Standards for accreditation of teacher education units and approval of programs.

RELATES TO: KRS 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028 requires that a [all] teacher education institution [institutions] be approved for offering a [the] preparation program [programs] corresponding to a particular certificate [certificates] on the basis of standards and procedures established by the Education Professional Standards Board. KRS 161.030 requires that a certificate [certificates] be issued to a person [all persons] who has [have] completed a program [programs] approved by the Education Professional Standards Board. This administrative regulation establishes the standards for accreditation of a teacher education unit [units] and approval of a program [programs] to prepare an educator [educators].

Section 1. Definitions. (1) "AACTE" means the American Association of Colleges for Teacher Education.

(2) "Board of Examiners" means the team who reviews an institution on behalf of NCATE or EPSB ~~[and is made up of an equal number of representatives from three (3) constituency groups: teacher educators, teachers, and state and local policymaker groups. A joint Board of Examiner team, consisting of both NCATE representatives and state representatives would result when an institution pursues joint NCATE and state accreditation].~~

(3) "EPSB" means the Education Professional Standards Board ~~[with the authority and responsibility as defined in KRS 161.028].~~

(4) "NCATE" means the National Council for Accreditation of Teacher Education.

(5) "NCATE accreditation" means a process for assessing and enhancing academic and educational quality through voluntary peer review. ~~[NCATE accreditation informs the public that an institution has a professional education unit that has met national standards of educational quality. NCATE accreditation of the education unit is not required by the Kentucky Professional Standards Board as a condition of offering in Kentucky teacher licensure and certification programs and programs leading to rank changes.]~~

(6) "State accreditation" means recognition by the EPSB that an institution has a professional education unit that has met quality standards as a result of review, including an on-site team review. ~~[State accreditation of the education unit is required as a condition of offering in Kentucky teacher licensure and certification programs and programs leading to rank changes.]~~

(7) "Third-year report" means the report summarizing the institutionally-prepared annual reports for a three (3) year period and prepared by NCATE or the EPSB.

Section 2. Accreditation Requirements. (1) A Kentucky institution:

(a) Shall be accredited by the state; and

(b) May be accredited by NCATE.

(2) State accreditation shall be:

(a) A condition of offering a teacher licensure or certification program or a program leading to a rank change; and

(b) Based on the accreditation standards included in the Standards, Procedures, and Policies for the Accreditation of Professional Education Units established by NCATE.

(3)(a) NCATE accreditation shall not be a condition of offering a teacher licensure or certification program or a program leading to a rank change.

(b) For a school that chooses NCATE accreditation, the

accreditation shall inform the public that the institution has a professional education unit that has met national standards of educational quality.

Section 3. Schedule and Communications. (1) The EPSB shall send an accreditation and program approval schedule to each teacher education institution no later than August 1 of each year. The regular accreditation cycle shall provide for an on-site continuing accreditation visit [visits] at a five (5) year interval [intervals].

(2) The accreditation and program approval schedule shall be directed to the official designated by the institution as the head of the teacher education unit with a copy to the president and to the chief academic officer. The head of the teacher education unit shall disseminate the information to administrative units within the institution, including the appropriate college, school, department, and office [colleges, schools, departments and offices].

(3) The EPSB shall annually place a two (2) year schedule of on-site accreditation visits for a [all] Kentucky institution [institutions] in the agenda materials and minutes of an EPSB business meeting.

(4) The EPSB shall coordinate dates for a joint state and NCATE accreditation on-site visit [visits].

(5) At least six (6) months prior to a scheduled on-site visit, an institution [institutions] seeking NCATE accreditation shall give public notice of the upcoming visit.

(6) The governance unit for teacher education shall be responsible for the preparation necessary to comply with the requirements for timely submission of materials for accreditation and program approval as established [described] in this administrative regulation.

Section 4. ~~[3.]~~ Annual Reports. (1) Each institution shall report annually to the EPSB to provide data about faculty and students in each ~~[of its]~~ approved program [programs], progress made in addressing weaknesses identified by its last accreditation evaluation, and major program developments in each ~~[of the]~~ NCATE category [categories] of standards.

(a) An NCATE-accredited institution shall submit to the EPSB

a:

1. Copy of the annual report sent to NCATE/AACTE; or
2. Completed EPSB Annual Report Form.

(b) An institution that is not NCATE-accredited shall submit to the EPSB a completed EPSB Annual Report Form. ~~[NCATE-accredited institutions may submit to the EPSB a copy of the annual report sent to NCATE/AACTE. Other institutions shall use the EPSB Annual Report Form dated 1996.]~~

(2) An evaluation team [teams] shall receive the third-year report [three (3) year reports], based on data submitted in the annual reports, in preparation for an on-site accreditation visit [visits].

(3) The EPSB shall use an annual report to monitor the capacity of a unit to continue a program [annual reports as a means of monitoring the capacity of units to continue programs] of high quality.

Section 5. ~~[4.]~~ Reading Committee. (1) The EPSB shall appoint and train a Reading Committee representative of the constituent groups to the EPSB. The Reading Committee shall conduct a preliminary review of accreditation materials and program folios from a teacher education institution [institutions] for adequacy, timeliness, and conformity with the corresponding standards.

(2) In the spring and fall semesters of each year, the Reading Committee shall analyze an institutional accreditation report, program description (folio), and annual report [all of the institutional accreditation reports, program descriptions (folios), and annual reports. These are reviewed] to determine conformity with accreditation standards and program standards.

(3) For initial accreditation, the Reading Committee shall:

(a) Review the preconditions documents prepared by the institution; and

(b) Send to the EPSB a preconditions report indicating whether a precondition has ~~[or not preconditions have]~~ been satisfied by documentation. If a precondition has ~~[some preconditions have]~~ not been met, the institution shall be asked to revise or send additional documentation. A preconditions report stating that the ~~[showing that all]~~ preconditions have been met shall ~~[must]~~ be inserted into the first section of the institutional report.

(4) For continuing accreditation and program approval, the Reading Committee shall:

(a) Determine that a submitted material meets ~~[materials meet]~~ requirements;

(b) Ask that EPSB staff resolve with the institution a discrepancy or omission ~~[any discrepancies or omissions]~~ in the report or folio ~~[folios]~~;

(c) Refer an unresolved discrepancy or omission ~~[discrepancies or omissions]~~ to the on-site accreditation team for resolution; or

(d) Recommend that the evaluation and approval process be terminated as a result of a severe deficiency ~~[deficiencies]~~ in the submitted material ~~[materials]~~.

(5) The EPSB shall discuss a recommendation for termination with the originating institution. The ~~[A recommendation for termination shall be discussed by EPSB staff with the originating institution. That]~~ institution may submit a written response to the EPSB which shall be presented, with the Reading Committee comments and written accreditation and program folios, by EPSB staff to the EPSB Program and Technical Assistance Committee for recommendation to the full EPSB.

Section 6. ~~[6-]~~ Preconditions for Initial Unit Accreditation. (1) Eighteen (18) months prior to the scheduled on-site visit of the evaluation team, the teacher education institution shall submit information to the EPSB, and to NCATE if appropriate, documenting the fulfillment of the preconditions for the accreditation of the teacher education unit, as established in subsection (2) of this section ~~[described below]~~.

(2) As a precondition for experiencing an on-site initial evaluation for teacher education, the institution shall present documentation to show that the following conditions are satisfied:

(a) Precondition Number 1. There is a written description of the professional education unit that is primarily responsible for the preparation of teachers and other professional education personnel. Required documentation shall include:

1. A letter from the president or chancellor, or the vice president for academic affairs or provost, indicating which unit at the institution has primary responsibility for professional education and describing the unit's authority and responsibilities;

2. A chart depicting all programs for the preparation of school personnel in the institution, indicating the unit to which each is administratively located, such as the school of education, school of music, or school of arts and sciences, and its relationship to the professional education unit;

3. A unit statement of mission, purpose, or goals; and

4. A summary of meetings and actions of the professional education unit for the preceding year (maximum of two (2) pages).

(b) Precondition Number 2. A dean, director, or chair is officially designated to represent the unit and assigned the authority and responsibility for its overall administration and operation. Required documentation shall include:

1. A job description for dean, director, or chair; and

2. A chart depicting the administrative and organizational structure of the unit.

(c) Precondition Number 3. Written policies and procedures exist upon which the operations of the unit rest. Required documentation shall include codified policies and operating procedures of the unit, such as a policy manual or constitution and by-laws.

(d) Precondition Number 4. The unit regularly monitors and evaluates, both internally and externally, its operation, scope, quality

of its offerings, and the effectiveness of its graduates. Required documentation shall include:

1. Policies and schedules for conducting systematic evaluation;

2. A summary of the findings of evaluation reports completed within the last five (5) years documenting internal review (maximum of two (2) pages);

3. A summary of the findings of evaluation reports completed in the last three (3) years documenting external program review, including follow-up study of graduates and employers (maximum of two (2) pages); and

4. A summary of recent program modifications based on evaluation results (maximum of two (2) pages).

(e) Precondition Number 5. The unit has criteria for admission to initial teacher education programs that include an assessment of basic skills. Required documentation shall include:

1. A list of basic skills that are assessed and the measures used to assess them;

2. Published criteria for admission to professional education programs; and

3. A summary report of assessment results for candidates admitted for at least the past three (3) years (maximum of two (2) pages).

(f) Precondition Number 6. The unit assesses the academic and professional competencies of education students at exit from all programs at all levels, through multiple evaluation methods. Required documentation shall include:

1. A listing of multiple assessment measures used to evaluate academic and professional competence of professional education candidates prior to graduation and recommendation for licensure; and

2. A summary of reports of competency assessment outcomes for at least the past three (3) years.

(g) Precondition Number 7. The unit's programs are approved by the appropriate state agency. Required documentation shall include copies of the most recent approval letter from the EPSB attesting that state standards have been met.

(h) Precondition Number 8. The institution is fully accredited by the appropriate institutional accrediting agency that is recognized by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation. Required documentation shall include a copy of the latest accreditation letter from the institutional accrediting agency showing that there is reasonable assurance of the overall quality of the institution in the general areas of finance, administration, facilities, students ~~[student personnel]~~, faculty, and instruction.

(i) Precondition Number 9. The institution is an equal opportunity employer and does not discriminate on the basis of race, sex, color, religion, age, or handicap in accordance with the provisions established by 42 USC 2000e-1 ~~[(consistent with Section 702 of Title VII of the Civil Rights Act of 1964, which deals with exemptions for religious corporations with respect to employment of individuals with specific religious convictions)]~~. Required documentation shall include a copy of the institution's official action pledging compliance with nondiscriminatory law and practice.

Section 7. ~~[6-]~~ Institutional Report. (1) For an initial accreditation visit, the teacher education unit shall submit, two (2) months prior to the scheduled on-site visit, a written narrative describing how standards are being met. The written narrative may be supplemented by a chart, graph, diagram, table ~~[charts, graphs, diagrams, tables]~~, or other similar means of presenting information. The report shall be submitted to the EPSB and to NCATE, if appropriate.

(2) For a continuing accreditation visit, the teacher education unit shall submit, two (2) months prior to the scheduled on-site visit, a report not to exceed twenty-five (25) pages addressing changes at the institution that have occurred since the last accreditation visit. The report shall be submitted to the EPSB and to NCATE, if appropriate. The narrative shall describe how a change relates to an

~~[changes relate to]~~ accreditation standard ~~[standards]~~ and the results of the continuous assessment process, including program evaluation.

Section 8. ~~[7-]~~ Program Descriptions (folios). Eighteen (18) months in advance of the scheduled on-site evaluation visit, the teacher education unit shall prepare and submit to the EPSB for each separate program of teacher preparation for which the institution is seeking approval a concise description which shall provide the following information for each program:

(1) ~~[(a)]~~ The unit's conceptual framework for the preparation of school personnel, followed by the program's conceptual framework, showing its congruence with the unit's framework;

(2) ~~[(b)]~~ Program experiences including the relationship among the program's courses and experiences, content standards of the relevant professional society, student academic expectations as established in 703 KAR 4:060, and relevant state performance standards established in 704 KAR 20:670 ~~[adopted by the EPSB]~~;

(3) ~~[(c)]~~ Identification of how the program implements continuous assessment to assure each candidate's mastery, prior to exit from the program, of content of the academic discipline~~[(c)]~~, and state performance standards as established in 704 KAR 20:670;

(4) ~~[(d)]~~ A list of faculty responsible for and involved with the conduct of the specific program, along with the highest degree of each, responsibilities for the program, and status of employment within the unit and the university; and

(5) ~~[(e)]~~ A curriculum guide sheet or contract provided to each student before or at the time of admittance to the program.

Section 9. ~~[8-]~~ Board of Examiners. (1) A Board of Examiners shall be recruited and appointed by the EPSB. The board shall be comprised of an equal number of representatives from three (3) constituency groups: teacher educators, teachers, and state and local policymaker groups and shall ~~[(e)]~~ include at least thirty-six (36) members representing the following constituencies.

(a) Kentucky Education Association, at least ten (10) members;

(b) Kentucky Association of Colleges of Teacher Education, at least ten (10) members; and

(c) At least ten (10) members nominated by as many of the following groups as may wish to submit a nomination ~~[nominations]~~:

1. Kentucky Association of School Administrators;
2. Persons holding positions in occupational education;
3. Kentucky Branch National Congress of Parents and Teachers;
4. Kentucky School Boards Association;
5. Kentucky Association of School Councils;
6. Kentucky Board of Education;
7. Kentucky affiliation ~~[affiliations]~~ of a national learned society or professional group ~~[societies and professional groups]~~;
8. Prichard Committee for Academic Excellence;
9. Partnership for Kentucky Schools; and
10. Subject area specialists in the Kentucky Department of Education.

(2) An appointment ~~[Based upon need, additional members of the Board of Examiners may be appointed by the EPSB.]~~

~~[(3)]~~ Appointments shall be for a period of four (4) years. A member ~~[Members]~~ may serve an additional term ~~[terms]~~ if renominated and reappointed in the manner prescribed for membership. A vacancy ~~[Vacancies]~~ shall be filled by the EPSB as it occurs ~~[they occur]~~.

(3) A member ~~[(4)]~~ All members of the Board of Examiners and a staff member ~~[members]~~ of the EPSB responsible for teacher education and approval of a teacher education program ~~[programs]~~ shall be trained by NCATE or trained in an NCATE-approved state program.

(4) ~~[(5)]~~ The EPSB shall select and appoint for each scheduled on-site accreditation a team of examiners giving consideration to the number and type of programs offered by the institution. Team appointments shall ~~[may]~~ be made at the beginning of the academic

year for each ~~[all of the]~~ scheduled evaluation visit. A replacement ~~[visits; however, replacements]~~ shall be made as needed.

(5) ~~[(6)]~~ For an institution ~~[institutions]~~ seeking NCATE accreditation, the EPSB and NCATE shall ~~[will]~~ arrange for the joint Board of Examiners to be chaired by an NCATE appointed team member. A state team chair shall ~~[will]~~ be appointed by the EPSB for a decision ~~[purposes of decisions]~~ on state accreditation and program approval and state report preparation. The joint Board of Examiners shall ~~[will]~~ be composed of a majority of NCATE appointees in the following proportions, respectively: NCATE and state - six (6) and five (5), five (5) and four (4), four (4) and three (3), three (3) and two (2). The size of the Board of Examiners shall depend upon the size of the institution and the number of programs to be evaluated.

(6) ~~[(7)]~~ For an institution ~~[institutions]~~ seeking state-only accreditation, the EPSB shall ~~[will]~~ appoint a chair from a pool of trained Board of Examiners members.

(7) ~~[(8)]~~ For initial accreditation, the state-only Board of Examiners shall have four (4) to six (6) members. For a continuing accreditation review ~~[reviews]~~ every five (5) years, the state Board of Examiners shall have two (2) to five (5) members. The EPSB shall make arrangements for the release time of a Board of Examiner member from his place of employment. ~~[Arrangements shall be made for the release time of Board of Examiners members from their places of employment by the EPSB.]~~

Section 10. ~~[9-]~~ Assembly of Records and Files for the Evaluation Team. For convenient access, the institution shall assemble, or make available, records and files of written materials which supplement the institutional report and which may serve as further documentation. The records and files shall include~~[-but not be limited to the following]~~:

- (1) The faculty handbook;
- (2) Agenda, list of participants, and products of a meeting, workshop, or training session ~~[meetings, workshops, and/or training sessions]~~ related to a curriculum and governance group ~~[groups]~~ impacting professional education;
- (3) Faculty transcripts;
- (4) A random sample of graduates' transcripts;
- (5) Conceptual framework documents;
- (6) A curriculum folio, rejoinder, or specialty group response that was ~~[folios, rejoinders, and specialty group responses that were]~~ submitted as a part of the folio review process;
- (7) Course syllabi;
- (8) Policies, criteria and student records related to admission and retention;
- (9) Samples of students' portfolios and other performance assessments;
- (10) Record of performance assessments of candidate progress and summary of results including a program change ~~[any program changes]~~ based on continuous assessment;
- (11) Student evaluations, including student teaching and internship performance; and
- (12) Data on performance of graduates, including results of state licensing examinations and job placement rates.

Section 11. ~~[(10-)]~~ Previsit to the Institution. No later than one (1) month prior to the scheduled on-site evaluation visit, the EPSB shall conduct a previsit to the institution to make a final review of the arrangements. For a NCATE-accredited institution ~~[institutions]~~, the previsit shall be coordinated with the NCATE previsit.

Section 12. ~~[(11-)]~~ On-site Evaluation Visit. (1) At least one (1) staff member of the EPSB shall be assigned as support staff and liaison during the evaluation visit.

(2) The EPSB shall reimburse a state team member ~~[members]~~ for travel, lodging, and meals in accordance with 200 KAR 2:006. A team member ~~[state travel administrative regulations. Team mem-~~

~~bers~~ representing NCATE shall be reimbursed by the teacher education institution ~~[in keeping with the NCATE guidelines]~~.

(3) The ~~[function of the]~~ evaluation team shall ~~[be to]~~ conduct an on-site evaluation of the self-study materials prepared by the institution and ~~[to]~~ seek out additional information, as needed, to make a determination as to whether the standards ~~were [are]~~ met for the accreditation of the institution's teacher education unit and for the approval of an individual teacher preparation program ~~[programs]~~. The evaluation team shall make use of the analyses prepared through the preliminary review process.

(4) An off-campus site which offers a self-standing program ~~[sites which offer self-standing programs]~~ shall require a full team visit. If additional team time is required for visiting an off-campus site ~~[sites]~~, the team chair, the institution, and the EPSB shall negotiate special arrangements.

(5) In a joint team ~~[teams]~~, all Board of Examiners members shall vote on NCATE accreditation. The ~~[Only]~~ state Board of Examiners members shall vote on state accreditation and program approval decisions.

(6) A decision ~~[Decisions]~~ about initial accreditation shall address each standard and shall be limited to the following decision options:

- (a) Met;
- (b) Met with specified stipulations; or
- (c) Not met.

(7) For continuing accreditation the Board of Examiners shall make a decision on each weakness cited in a previous visit ~~[the previous visits]~~ and cite any new weaknesses.

(8) A decision about a specific program ~~[Decisions about specific programs]~~ shall be limited to the following decision options:

- (a) Approval;
- (b) Approval with stipulations; or
- (c) Denial of approval.

(9) The on-site evaluation process shall end with a brief oral report:

- (a) By the NCATE team chair and state team chair for a joint state/NCATE visit ~~[visits]~~; or
- (b) By the state team chair for a state-only visit ~~[visits]~~.

Section 13. ~~[12.]~~ Preparation and Distribution of the Evaluation Report. (1) For a state-only visit, the evaluation report shall be prepared and distributed as follows:

(a) The ~~[visits, the]~~ EPSB staff shall collect the written evaluation pages from each Board of Examiners member before leaving the institution.

(b) The first draft shall ~~[then]~~ be typed and distributed to Board of Examiners members.

(c) A revision ~~[Any revisions]~~ shall be consolidated by the Board of Examiners chair who shall ~~[then]~~ send the next draft to the unit head to review for factual accuracy.

(d) The unit shall submit to the Board of Examiners chair within five (5) days a written correction to the ~~[corrections to any]~~ factual information contained in the report.

(e) The Board of Examiners chair shall submit the final report to the EPSB and a copy to each member of the Board of Examiners.

(f) The final report shall be printed by the EPSB and sent to the institution and to the Board of Examiners members within thirty (30) days of the conclusion of the on-site visit.

(2) For a joint state/NCATE visit, the evaluation report shall be prepared and distributed as follows:

(a) The ~~[visits, the]~~ NCATE chair shall be responsible for the preparation, editing and corrections to the NCATE report ~~[as stipulated by NCATE]~~.

(b) The state chair shall be responsible for the preparation, editing and corrections of the state report in the same manner established ~~[as stipulated]~~ in subsection (1) of this section for a state-only visit.

(c) The EPSB Board of Examiners report for state/NCATE continuing accreditation visits shall be prepared in accordance with the report format ~~[dated 1997 specified in Section 19 of this administrative regulation]~~.

Section 14. ~~[13.]~~ Institutional Response to the Evaluation Report.

(1) (a) The institution shall acknowledge receipt of the evaluation report within thirty (30) days of receipt of the report.

(b) If desired, the institution shall ~~[may]~~ submit within thirty (30) days a written rejoinder to the report which may be supplemented by materials pertinent to a conclusion ~~[conclusions]~~ found in the evaluation report.

(c) The rejoinder and the Board of Examiners report shall be ~~[are]~~ the primary documents reviewed by the Accreditation Audit Committee and EPSB.

(d) An unmet standard or weakness statement ~~[Unmet standards or weakness statements]~~ cited by the team may be recommended for change or removal by the Accreditation Audit Committee or by the EPSB because of evidence presented in the rejoinder. The Accreditation Audit Committee or the EPSB shall not be bound by the Board of Examiners decision and may reach a conclusion different from the Board of Examiners. ~~[On occasion, the Accreditation Audit Committee or the EPSB may place greater or lesser emphasis than the BOE team on an issue cited in the rationale for a standards decision or a weakness decision and cite an additional weakness or change a weakness to an unmet standard.]~~

(2) If ~~[In the event that]~~ a follow-up report is prescribed through accreditation with stipulations, the institution shall follow the instructions that are provided with the follow-up report.

(3) If ~~[In the event]~~ the institution chooses to appeal a ~~[any]~~ part of the evaluation results, the procedure established ~~[stated]~~ in Section 19 ~~[18]~~ of this administrative regulation shall be followed.

(4) The institution shall make an annual report ~~[reports]~~ relating to the unit for teacher education and relating to the programs of preparation as required by ~~[described in]~~ Section 4 ~~[3]~~ of this administrative regulation.

Section 15. ~~[14.]~~ Accreditation Audit Committee. (1) The Accreditation Audit Committee shall be a committee of the EPSB, reporting to the Program and Technical Assistance Committee of the board. The chairperson of the EPSB shall appoint the Accreditation Audit Committee as follows:

(a) One (1) lay member;

(b) Two (2) classroom teachers, appointed from nominees provided by the Kentucky Education Association;

(c) Two (2) teacher education representatives, one (1) from a state-supported institution and one (1) from an independent teacher education institution, appointed from nominees provided by the Kentucky Association of Colleges for Teacher Education; and

(d) Two (2) school administrators appointed from nominees provided by the Kentucky Association of School Administrators.

(2) The chairperson of the EPSB shall designate a member of the Accreditation Audit Committee to serve as its chairperson and to report to the Program and Technical Assistance Committee.

(3) An appointment ~~[Appointments]~~ shall be for a period of four (4) years except that three (3) ~~[one-half]~~ of the initial appointments shall be for a two (2) year term. ~~[terms. Members]~~ A member ~~[terms. Members]~~ may serve an additional term ~~[terms]~~ if renominated and reappointed in the manner established ~~[described]~~ for membership. A vacancy ~~[Vacancies]~~ shall be filled as it occurs ~~[they occur]~~ in a manner consistent with the provisions for initial appointment.

(4) A member ~~[All members]~~ of the Accreditation Audit Committee shall be trained by NCATE or by an NCATE-approved trainer ~~[trainers]~~.

(5) Following an on-site accreditation visit ~~[visits]~~, the Accreditation Audit Committee shall review the reports and materials constituting an institutional self-study ~~[studies]~~, the report of the evaluation

team, and the institutional response to the evaluation report. The committee shall then prepare a recommendation [~~recommendations~~] for consideration by the Program and Technical Assistance Committee.

(a) The committee shall review procedures of the Board of Examiners to determine whether approved accreditation guidelines were followed.

(b) For each institution [~~all institutions~~], the committee shall make a recommendation with respect to the accreditation of the institutional unit for teachers education as well as for approval of the individual programs of preparation.

(c) For initial accreditation, one (1) of three (3) recommendations shall be made:

1. Full accreditation;
2. Accreditation with stipulations specified; or
3. Denial of accreditation.

(d) For regular continuing accreditation, one (1) of two (2) recommendations shall be made:

1. Continuing accreditation; or
2. Continuing accreditation with probation.

(6) The Accreditation Audit Committee shall review each program report including a report [~~all program reports including reports~~] from the Reading Committee, evaluation team, and institutional response and shall make one (1) of three (3) recommendations for each individual preparation program to the Program and Technical Assistance Committee:

1. Approval;
2. Approval with stipulations specified; or
3. Denial of approval.

(7) The Accreditation Audit Committee shall review information, including institutional response, resulting from an EPSB-ordered on-site limited program evaluation review and shall make recommendations to:

- (a) Continue program approval;
- (b) Approve with stipulations; or
- (c) Deny approval.

(8) The Accreditation Audit Committee shall compile accreditation data and information for each Kentucky institution that prepares [~~all Kentucky institutions that prepare~~] school personnel. It shall [~~periodically~~] prepare for the EPSB reports and recommendations regarding accreditation standards and procedures as needed to improve the accreditation process and the preparation of school personnel.

Section 16. [~~45-~~] Official State Accreditation Action by the Education Professional Standards Board. (1) A recommendation from the Reading Committee for termination of the process of accreditation and program approval as required by [~~specified in~~] Section 5 [~~4~~] of this administrative regulation shall be presented by EPSB staff to the Program and Technical Assistance Committee for a recommendation to the full board. In considering its recommendation, the Program and Technical Assistance Committee shall review written information from the Reading Committee and a response by the institution. A decision shall be to terminate or continue [~~Decisions include termination or continuance of~~] the accreditation and program approval process.

(2) A recommendation [~~Recommendations~~] from the Accreditation Audit Committee shall be presented to the Program and Technical Assistance Committee which shall make a recommendation to the full board.

(3) The EPSB shall consider the findings and recommendations of the Program and Technical Assistance Committee and make a final determination regarding the state accreditation of the teacher education unit.

(4) An [~~Ne~~] institution shall not have its accreditation removed following a regular continuing accreditation visit. The EPSB shall determine to:

- (a) Continue accreditation, indicating that the unit, taken as a

whole, meets standards for accreditation. A weakness [~~Weaknesses~~] may be cited which shall be addressed by the institution in its subsequent annual report [~~reports~~]. The next on-site visit shall be scheduled five (5) years following the semester of the visit; or

(b) Continue accreditation with probation, indicating that the unit has serious weaknesses which may place the teacher education unit in jeopardy if not corrected soon. An on-site visit shall be scheduled by the institution within two (2) years of the semester in which the decision was made. This visit shall be conducted according to the guidelines for an initial accreditation visit. The accreditation standards in place at the time of the on-site visit shall be addressed by the unit as a part of this visit. Following the on-site visit, the EPSB shall decide to:

1. Continue accreditation and schedule the next visit in five (5) years from the time the decision is made;

2. Continue accreditation with stipulations as established [~~specified~~] in this paragraph; or

3. Revoke accreditation.

(5) Decision options following an initial accreditation visit [~~visits~~] shall include:

(a) Full accreditation, indicating that the unit, taken as a whole, meets standards for accreditation. A weakness [~~Weaknesses~~] may be cited which shall be addressed by the institution in its subsequent annual report [~~reports~~]. The next on-site visit shall be scheduled five (5) years following the semester of the visit;

(b) Accreditation with stipulations, specifying a critical deficiency that shall [~~deficiencies that must~~] be addressed within a specified time not to exceed eighteen (18) months from the date of the action by the EPSB. A stipulation shall be limited to a critical deficiency for which a correction [~~Stipulations are limited to critical deficiencies for which corrections~~] may be verified through written report and documentation. If the EPSB decides that the documentation sufficiently supports a decision to remove the stipulation, an on-site accreditation visit shall be [~~is~~] scheduled within the regular cycle. If the EPSB decides that the documentation does not sufficiently support a decision to remove the stipulation, accreditation shall be [~~is~~] revoked; or

(c) Denial of accreditation, indicating that severe or numerous deficiencies limit the ability of the unit to offer a quality program [~~programs~~] to prepare an educator [~~educators~~].

(6) Notification of EPSB action to revoke continuing accreditation or deny initial accreditation, including failure to remove stipulations, shall include notice that:

(a) The institution shall inform students currently admitted to a certification and licensure or rank program [~~programs~~] of the following:

1. A student [~~Only students~~] recommended for licensure or advancement in rank within the twelve (12) months immediately following the denial of state accreditation and who applies [~~apply~~] to the EPSB within the fifteen (15) months immediately following the denial of state accreditation shall receive the teaching license and certificate or advancement in rank; and

2. A student who does not meet the criteria established in subparagraph 1 of this paragraph [~~All other students~~] shall transfer to a state accredited teacher education unit in order to receive the teaching license and certificate or advancement in rank; and

(b) An institution [~~Institutions~~] for which the EPSB has revoked or denied accreditation shall [~~may~~] seek state accreditation through completion of the initial accreditation process. The on-site accreditation visit shall be scheduled by the EPSB no earlier than two (2) years following the EPSB action to revoke or deny state accreditation.

Section 17. [~~46-~~] Program Approval Action by the Education Professional Standards Board. (1) Approval of a program [~~programs~~] shall be through the program folio process established [~~identified~~] in Section 8 [~~7~~] of this administrative regulation except that a new program [~~programs~~] not submitted during the regular accreditation

cycle or a program [programs] substantially revised since submission during the accreditation process shall [must] be submitted for approval by the EPSB prior to admission of a student [students] to the program [these programs].

(2) For a new or substantially revised program [programs], the EPSB shall consider a recommendation [recommendations] by staff, including review by content personnel.

(3) For a program [programs] reviewed during the accreditation process, the EPSB shall consider reports including information from the Reading Committee, evaluation team, and institutional response.

(4) A recommendation made pursuant to [Recommendations as specified in] subsections (2) and (3) of this section shall be presented to the Program and Technical Assistance Committee which shall make a recommendation to the full EPSB.

(5) Program approval decision options shall be:

(a) Approval, with next review scheduled during the regular accreditation cycle unless a substantial revision is [revisions are] made;

(b) Approval with stipulations, with a maximum of one (1) year probationary extension for correction of a specified problem [problems] to be documented through written materials [in most cases] or through an on-site visit. At the end of the extension, the EPSB shall decide that the documentation supports;

1. [The EPSB may decide that documentation supports] Approval; or

2. [The EPSB may decide that documentation supports] Denial of approval; or

(c) Denial, indicating that a serious problem exists which jeopardizes [serious problems exist which jeopardize] the quality of preparation of school personnel.

(6) The EPSB shall [may] order review of a [any] program if [when] it has cause to believe that the quality of preparation is seriously jeopardized. The review shall [Such review may] be conducted by EPSB staff and Board of Examiners trained reviewers. The review shall [will] result in a report to which the institution may respond. The review report and institutional response shall be used by the Accreditation Audit Committee as the basis for a recommendation to the Program and Technical Assistance Committee and to the full board for:

(a) Approval;

(b) Approval with stipulations; or

(c) Denial of approval for the program.

(7) If the EPSB denies approval of a program, the institution shall notify each student currently admitted to that program of the EPSB action. The notice shall include the following information: [Notification of EPSB action to deny approval of any program shall include notice that:

(a) The institution shall inform students currently admitted to that program of the following:]

(a) A student [1-Only students] recommended for licensure and certification or advancement in rank within the twelve (12) months immediately following the denial of state approval and who applies [apply] to the EPSB within the fifteen (15) months immediately following the denial of state approval shall receive the teaching license or advancement in rank; and

(b) A student who does not meet the criteria established in paragraph (a) of this subsection [2-All other students] shall transfer to a state approved program in order to receive the teaching license and certificate or advancement in rank.

Section 18. ~~[17.]~~ Public Disclosure. (1) After a unit and program approval decision becomes [decisions become] final, the EPSB shall prepare official notice of the action. The disclosure notice shall include the [all] essential information provided in the official letter to the institution, including the decision [decisions] on accreditation, program approval, standards not met, program strengths and

weaknesses, and dates of official action.

(2) The public disclosure shall be entered into the minutes of the board for the meeting in which the official action was taken by the EPSB.

(3) Thirty (30) days after the institution has received official notification of EPSB action, the EPSB shall on request provide a copy of the public disclosure notice to the Kentucky Education Association, the Council on Postsecondary [Higher] Education, the Council of Independent Kentucky Colleges and Universities or other organization or individual [organizations or individuals].

Section 19. ~~[18.]~~ Appeals Process. (1) If an institution seeks appeal of a decision, the institution shall [have the right to] appeal within thirty (30) days of receipt of the EPSB official notification. An institution shall [may] appeal [only] on the grounds that:

(a) A prescribed standard was disregarded;

(b) A state procedure was not followed; or

(c) [prescribed standards were disregarded, state procedures were not followed, or] Evidence of compliance in place at the time of the review and favorable to the institution was not considered.

(2) An ad hoc appeals board of no fewer than three (3) members shall be appointed by the EPSB chair from members of the Board of Examiners who have not had [no] involvement with the team visit or a conflict of interest regarding the institution. The ad hoc committee shall recommend action on the appeal to the EPSB.

(3) The consideration of the appeal shall be in accordance with KRS Chapter 13B.

Section 20. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Standards, Procedures, and Policies for the Accreditation of Professional Education Units", 1995 Edition, National Council for Accreditation of Teacher Education;

(b) "EPSB Annual Report Form", 1996 Edition, Education Professional Standards Board; and

(c) "Board of Examiners Report Format for State/NCATE Continuing Accreditation Visits", 1997 Edition, Education Professional Standards Board.

(2) This material may be inspected, copied, or obtained at the Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

~~[Section 19. Accreditation Standards, Annual Report Form and State Accreditation Report. Accreditation standards developed for use in NCATE accreditation are adopted by the EPSB for use in state accreditation decisions. The adoption of these standards by the EPSB does not require that Kentucky institutions choose to be accredited by NCATE. The "National Council for Accreditation of Teacher Accreditation Standards for the Accreditation of Professional Education Units" revised 1995, the EPSB Annual Report Form dated 1996, and the EPSB Board of Examiners Report for State/NCATE Continuing Accreditation Visits Format dated 1997 are hereby adopted and incorporated by reference and may be inspected, copied, and obtained from the Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. except holidays.]~~

ROSA WEAVER, Chair

APPROVED: May 8, 1997

FILED WITH LRC: May 9, 1997 at noon

LABOR CABINET
Department of Workers' Claims
(As Amended)

803 KAR 25:010. Procedure for adjustments of claims.

RELATES TO: KRS [Chapter] 342.125, 342.260, 342.265, 342.270(7), 342.710, 342.715, 342.760

STATUTORY AUTHORITY: KRS [Chapter 13A.] 342.260, 342.270(7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260 requires the commissioner to promulgate such rules and administrative regulations as are necessary to carry on the work of the department, administrative law judges, the Workers' Compensation Board and to implement the provisions of KRS Chapter 342. KRS 342.270(7) requires the commissioner to promulgate an emergency administrative regulation establishing procedures for the resolution of claims, which shall include benefit review. The emergency administrative regulations shall be promulgated within 120 days of the effective date of the revisions to KRS Chapter 342 which became effective December 12, 1996. The function of this administrative regulation is to regulate practice and procedure before the arbitrators, administrative law judges and the Workers' Compensation Board. ~~KRS 342.260 requires the commissioner to promulgate such rules and administrative regulations as are necessary to carry on the work of the department, the administrative law judges, the Workers' Compensation Board and to implement the provisions of KRS Chapter 342. The function of this administrative regulation is to regulate practice and procedure before the administrative law judges and the Workers' Compensation Board. This administrative regulation repeals and replaces 803 KAR 25:011.]~~

Section 1. Definitions. (1) "Administrative law judge" means an individual appointed pursuant to KRS 342.230(3).

(2) "Arbitrator" means an individual appointed pursuant to KRS 342.230(9).

(3) "Board" means the Workers' Compensation Board created pursuant to KRS 342.215(1).

(4) "Civil rule" means the Kentucky Rules of Civil Procedure.

(5) "Commissioner" means the Commissioner of the Department of Workers' Claims appointed pursuant to KRS 342.228.

(6) "Date of filing" means the date a pleading, motion, or other document is received by the Commissioner at the Department of Workers' Claims in Frankfort, Kentucky, except final orders and opinions of arbitrators, administrative law judges, and the board, which shall be deemed "filed" three (3) days after the date set forth on the final order or opinion.

(7) "Employer" means and includes individuals, partnerships, voluntary associations and corporations.

(8) "An employer who has not secured payment of compensation" means any employer who employs covered employees as defined by KRS 342.640 but has not complied with KRS 342.340.

(9) "Special defenses" means defenses that shall be raised by "special answer" filed within forty-five (45) days of the notice of filing an application for resolution of claim, or within ten (10) days after discovery of facts supporting the defense if discovery could not have been had earlier in the exercise of due diligence. Special defenses are waived if not timely raised. Special defenses which shall be pleaded are defenses arising under:

(a) KRS 342.035(3) unreasonable failure to follow medical advice;

(b) KRS 342.165 failure to comply with safety administrative regulation;

(c) KRS 342.316(6) and 342.335 false statement on employment application;

(d) KRS 342.395 voluntary rejection of KRS Chapter 342;

(e) KRS 342.310(3) voluntary intoxication and self-infliction of injury;

(f) KRS 342.710(5) refusal to accept rehabilitation services; and

(g) Running of periods of limitations or repose.

Section 2. Parties. (1) The party making the original application for resolution of claim pursuant to KRS 342.270 and 342.316 shall be designated as "plaintiff" and adverse parties as "defendants".

(2) All persons shall be joined as plaintiffs in whom any right to any relief pursuant to KRS Chapter 342, arising out of the same transaction and occurrence, is alleged to exist. If any person should refuse to join as a plaintiff, that person shall be joined as a defendant, and the fact of refusal to join as a plaintiff shall be pleaded.

(3)(a) All persons shall be joined as defendants against whom the ultimate right to any relief pursuant to KRS Chapter 342 may exist, whether jointly, severally, or in the alternative. An arbitrator or administrative law judge may order, upon a proper showing, that a party be joined or dismissed.

(b) The Special Fund may be joined as a defendant in accordance with the appropriate statutory provisions for claims in which the injury date or date of last exposure occurred before December 12, 1996.

(c) Joinder shall be sought by motion as soon as practicable after legal grounds for joinder are known. Notice of joinder and a copy of the claim file shall be served in the manner ordered by the arbitrator or administrative law judge.

Section 3. Pleadings. (1) An application for resolution of claim and all other pleadings shall be typewritten and be submitted upon forms prescribed by the commissioner.

(2) An application for resolution of claim shall be filed with sufficient copies for service on all parties. The commissioner shall make service by first class mail. Incomplete applications may be rejected and returned to the applicant. If the application is resubmitted in proper form within twenty (20) days of the date it was returned, the filing shall relate back to the date the application was first received by the commissioner. Otherwise, the date of second receipt shall be the filing date.

(3) All pleadings shall be served upon the commissioner and shall be served upon all other parties by mailing a copy to the other parties or, if represented, to that representative, at the parties' or representatives' last known address. A certificate of service indicating the method and date of service and signed by the party shall appear on the face of the pleading. Notices of deposition and physical examination shall be served upon the parties and shall not be filed with the commissioner.

(4) After the application for resolution has been assigned to an arbitrator or administrative law judge, subsequent pleadings shall include, within the style of the claim and immediately before the claim number, "Before arbitrator (name)" or "Before administrative law judge (name)." Upon consolidation of claims, the most recent claim number shall be listed first.

Section 4. Motions. (1) The party filing a motion shall tender a proposed order granting the relief requested.

(2) The party filing a motion may file a brief memorandum supporting the motion and opposing parties may file brief memoranda in reply. Further memoranda (for example, reply to response) shall not be filed.

(3) Every motion and response, the grounds of which depend upon the existence of facts not in evidence, shall be supported by affidavits demonstrating such facts.

(4) Every motion, the grounds of which depend upon the existence of facts which the moving party believes are shown in the evidence or are admitted by the pleadings, shall make reference to the place in the record where that evidence or admission is found.

(5) A motion, other than to reopen pursuant to KRS 342.125 or for interlocutory relief, may be considered ten (10) days after the date of filing. A response will be considered if filed on or before the tenth

day after the filing of the motion.

(6)(a) A motion to reopen shall be accompanied by as many of the following items as may be applicable:

1. A current medical release Form 106 executed by the plaintiff;
2. An affidavit evidencing the grounds to support reopening;
3. A current medical report showing a change in disability established by objective medical findings;
4. A copy of the opinion and award, settlement, voluntary agreed order or agreed resolution sought to be reopened;
5. An affidavit certifying that no previous motion to reopen has been made by the moving party, or if one (1) has previously been made, the date on which the previous motion was filed.

(b) A motion to reopen shall not be considered until twenty-five (25) days after the date of filing. Responses may be served within twenty (20) days of filing the motion to reopen.

(c) Any party may use the following sample forms provided by the department for motions to reopen:

1. Motion to reopen by employee;
2. Motion to reopen by defendant; and
3. Motion to reopen KRS 342.732 benefits.

(7) Motion for allowance of a plaintiff's attorney fee shall be made within thirty (30) days following the finality of the award, settlement or agreed resolution upon which the fee request is based and be served upon the adverse parties and the attorney's client. The motion shall set forth the fee requested and mathematical computations establishing that the request is within the limits set forth in KRS 342.320. The motion shall be accompanied by an affidavit of counsel detailing the extent of the services rendered and the time expended, a signed and dated Form 109 as required by KRS 342.320(3), and a copy of the signed and dated contingency fee contract.

(8) A motion for allowance of defendant's attorney's fee shall be filed as required by KRS 342.320. The motion shall be accompanied by an affidavit of counsel detailing the extent of the services rendered and the time expended, the hourly rate and total amount to be charged, the date upon which agreement was reached for providing the legal services, and a certification of any amounts previously paid on the claim in question.

(9) The following sample motions relating to vocational rehabilitation training provided by the department may be used by all parties:

- (a) Petition for vocational rehabilitation training; and
- (b) Joint motion and agreement to waive vocational rehabilitation evaluation.

Section 5. Application for Resolution of an Injury Claim. (1) Form 101 shall be filed with the following completed documents:

(a) Work history (Form 104), to include all past jobs performed on a full or part-time basis within twenty (20) years preceding the date of injury;

(b) Medical history (Form 105), to include all physicians, chiropractors, osteopaths, psychiatrists, psychologists, and medical facilities such as hospitals where the individual has been seen or admitted in the preceding fifteen (15) years and including beyond that date any physicians or hospitals regarding treatment for the same body part claimed to have been injured;

(c) Medical release (Form 106);

(d) One (1) medical report describing the injury which is the basis of the claim and, if a psychological condition is alleged, an additional medical report establishing the presence of a mental impairment or disorder. Medical reports required under this paragraph may consist of legible, hand-written notes of a treating physician. Medical reports filed with an application shall be considered as evidence before the arbitrator.

(2) Defendant shall file a notice of claim denial or acceptance (Form 111) within forty-five (45) days after the date of issuance of notice that an application for resolution of claim has been filed, or within forty-five (45) days following an order sustaining a motion

to reopen a claim. If none is filed, all allegations of the application shall be deemed admitted. The notice of claim denial or acceptance shall set forth all pertinent matters which are admitted and those which are denied. In the event a claim is denied in whole or in part, a defendant shall set forth a detailed summary of the basis for denial, and the name of any witnesses whose testimony may be relevant to that denial. This notice shall include a description of the physical requirements of plaintiff's job at the time of the alleged injury and the name, address and telephone number of the individual responsible for gathering this information for the employer and its insurer. This requirement of filing a notice of admission or denial is in addition to the requirement to file a special answer in accordance with Section 1(9) of this administrative regulation although a denial may incorporate special defenses which have been timely raised.

(3) Proof taking and discovery for all parties may proceed for a period beginning with the date of issuance of notice that an application for resolution has been filed to and including a date sixty (60) days from the date the claim is assigned to an arbitrator.

(4) During the pendency of a claim, any party obtaining a medical or vocational report or records shall serve a copy of the report and records upon all other parties within ten (10) days following receipt.

Section 6. Application for Resolution of an Occupational Disease Claim. (1) Form 102 shall be filed with the following completed attachments:

(a) Work history (Form 104), to include all past jobs performed on a full or part-time basis within twenty (20) years preceding the date of last exposure and all jobs in which plaintiff alleges exposure to the hazards of the occupational disease;

(b) Medical history (Form 105), to include all physicians, chiropractors, osteopaths, psychiatrists, psychologists, and medical facilities such as hospitals where the individual has been seen or admitted in the preceding fifteen (15) years and including beyond that date any physicians or hospitals regarding treatment for the same body part claimed to have been injured;

(c) Medical release (Form 106);

(d) One (1) medical report supporting the existence of occupational disease. For coal related pneumoconiosis claims, the medical report shall include both a chest x-ray examination and spirometric tests when pulmonary dysfunction is alleged. Medical reports filed with an application shall be considered as evidence before the arbitrator;

(e) Social Security earnings record release form (Form 115).

(2) Defendant shall file a notice of claim denial or acceptance (Form 111) within forty-five (45) days after the date of issuance of notice that an application for resolution has been filed, or within forty-five (45) days following an order sustaining a motion to reopen a claim. If none is filed, all allegations of the application shall be deemed admitted. The notice of claim denial or acceptance shall set forth all pertinent matters which are admitted and those which are denied. In the event a claim is denied in whole or in part, a defendant shall set forth a detailed summary of the basis for denial, and the name of any witnesses whose testimony may be relevant to that denial. This notice shall include a description of the physical requirements of plaintiff's job on the alleged date of last exposure; the names of any witnesses; and the name, address, and telephone number of the individual responsible for gathering this information for the employer and its insurer, if any. This requirement of filing a notice of admission or denial is in addition to the requirement to file a special answer in accordance with Section 1(9) of this administrative regulation although a denial may assert the special defenses set out above.

(3) For all occupational disease or hearing loss claims, the commissioner shall promptly schedule an examination pursuant to KRS 342.315 and 342.316.

(4) Proof taking and discovery for all parties may proceed for a period beginning with the date of issuance of notice that an applica-

tion for resolution of claim has been filed to and including a date sixty (60) days from the date the claim is assigned to an arbitrator.

(5) During the pendency of a claim, any party obtaining a medical or vocational report or records shall serve a copy of the report and records upon all other parties within ten (10) days of the receipt.

Section 7. Application for Resolution of a Hearing Loss Claim. (1) Form 103 shall be filed with the following completed documents:

(a) Work history (Form 104), to include all past jobs performed on a full or part-time basis within twenty (20) years preceding the last date of noise exposure;

(b) Medical history (Form 105), to include all physicians, chiropractors, osteopaths, psychiatrists, psychologists, and medical facilities such as hospitals where the individual has been seen or admitted in the preceding fifteen (15) years and including beyond that date any physicians or hospitals regarding treatment for hearing loss or ear complaints;

(c) Medical release (Form 106);

(d) One (1) medical report describing the hearing loss which is the basis of the claim and, if a psychological condition is alleged, an additional medical report establishing the presence of a mental impairment or disorder. Medical reports required under this paragraph may consist of legible, hand-written notes of a treating physician. Medical reports filed with an application shall be considered as evidence before the arbitrator;

(e) Social Security earnings record release form (Form 115).

(2) Defendant shall file a notice of claim denial or acceptance (Form 111) within forty-five (45) days after the date of issuance of notice that an application for resolution of claim has been filed, or within forty-five (45) days following an order sustaining a motion to reopen a claim. If none is filed, all allegations of the application shall be deemed admitted. The notice of claim denial or acceptance shall set forth all pertinent matters which are admitted and those which are denied. In the event a claim is denied in whole or in part, a defendant shall set forth a detailed summary of the basis for denial, and the name of any witnesses whose testimony may be relevant to that denial. This notice shall include a description of the physical requirements of plaintiff's job at the time of the alleged injury and the name, address and telephone number of the individual responsible for gathering this information for the employer and its insurer. This requirement of filing a notice of admission or denial is in addition to the requirement to file a special answer in accordance with Section 1(9) of this administrative regulation although a denial may incorporate special defenses which have been timely raised.

(3) Proof taking and discovery for all parties may proceed for a period beginning with the date of issuance of notice that an application for resolution has been filed to and including a date sixty (60) days from the date the claim is assigned to an arbitrator.

(4) During the pendency of a claim, any party obtaining a medical or vocational report or records shall serve a copy of the report and records upon all other parties within ten (10) days following receipt.

Section 8. Benefit Review Before Arbitrator. (1) The arbitrator to whom the claim is assigned may discuss voluntary resolution of the claim with the parties by telephone conference or in a benefit review conference and may require the parties to submit written stipulations of fact.

(2) When a claim is resolved, the parties shall complete an agreement as to compensation (Form 110) or prepare for entry an agreed resolution of the claim. The parties shall then tender the agreement as to compensation or agreed resolution to the arbitrator for approval.

(3) A benefit review conference, if held, shall be attended by the plaintiff and representative, if any, and by the defendant or its representative, if any. The benefit review conference shall be an informal proceeding and no transcript or recording of the conference shall be made. The parties shall, at the conference, dispose of

controversies whenever possible and define disputed issues.

(4) Proof before an arbitrator shall be submitted by way of medical or vocational report and, for lay witnesses, by way of affidavit. Cross-examination may occur at the expense of the party seeking that cross-examination and may be had only upon motion to the arbitrator setting forth good cause for the need of cross-examination. A motion to permit cross-examination shall be made within ten (10) days following filing of the medical report or affidavit, or notice of assignment to an arbitrator, whichever last occurs. No more than two (2) medical reports may be placed in evidence by any party without prior approval of the arbitrator.

(5) Additional proof may be submitted in the following forms:

(a) Any party may take a deposition of another party if the party agrees to be deposed. Notice of the deposition shall be given to all parties.

(b) A deposition shall be considered as evidence only if it is filed prior to the expiration of proof time.

(c) Parties may present written questions to other parties who have not been deposed but not to witnesses who are not parties. Questions shall not be presented after thirty (30) days from the date the claim is assigned to an arbitrator.

(d) Answers to written questions may be submitted as evidence in accordance with the following:

1. A party may present a maximum of fifteen (15) questions to each other party;

2. Each portion of a question requiring a separate answer shall be counted as a separate question;

3. Questions shall be presented in nontechnical terms and shall not request legal conclusions be made by the answering party.

4. The following questions shall not count towards the maximum number of questions allowed:

a. A question requesting the name of the answering party; and

b. A question requesting whether the party is willing to supplement answers if pertinent information later becomes available.

5. The party on whom the questions have been served shall serve a copy of the answers within fifteen (15) days after the service of the questions.

6. Answers to the questions shall be signed by the responding party, whose signature shall be notarized and may be admitted into evidence by any party by notice to all parties and the arbitrator.

7. If the defendant-employer is not a natural person, the defendant-employer shall designate an individual to answer the questions, and the attorney for the Special Fund shall be deemed to be answering on behalf of the Special Fund.

(6) If a claim is not voluntarily resolved, the arbitrator shall, within ninety (90) days of assignment of the claim, render a written benefit review determination setting forth matters stipulated, matters denied, findings of fact, and conclusions of law.

(7) [(6)] At any time during the benefit review process, an arbitrator may determine that the pending claim presents factual issues best resolved through a hearing before an administrative law judge and enter an order transferring the claim to an administrative law judge for further proceedings.

Section 9. Medical Evaluations Pursuant to KRS 342.315. (1) All persons claiming benefits for coal workers' pneumoconiosis pursuant to KRS 342.732, hearing loss, or occupational disease shall be referred by the commissioner for a medical evaluation in accordance with the contract entered into between the commissioner and the University of Kentucky and University of Louisville medical schools.

(2) For all other claims, the commissioner, an arbitrator, or an administrative law judge, in their discretion, or upon motion by a party, may direct appointment by the commissioner of a medical

evaluator in accordance with contracts with the University of Kentucky and University of Louisville medical schools.

(3) Upon the scheduling of an evaluation, the commissioner shall provide notice to all parties and the employer shall forward to the plaintiff necessary travel expenses. Upon completion of the evaluation the commissioner shall provide copies of the report to all parties and shall file the original report in the claim record to be considered as evidence.

(4) The administrative law judge shall allow timely cross-examination of a medical evaluator appointed by the commissioner at the expense of the moving party ~~[only upon motion showing cause]~~.

(5) Unjustified failure by the plaintiff to attend the scheduled medical evaluation may be grounds for dismissal, payment of a no-show fee, sanctions, or all of the above.

(6) Failure by the employer or its insurance carrier to pay travel expenses within seven (7) days of notification of a scheduled medical evaluation may be grounds for imposition of sanctions.

Section 10. Medical Reports. (1) A party may introduce direct testimony from no more than two (2) physicians by medical report except upon a showing of good cause and prior approval by an arbitrator or administrative law judge.

(2) Medical reports shall be submitted on Form 107-I (injury), Form 107-P (psychological) or Form 108-OD (occupational disease), Form 108-CWP (coal workers' pneumoconiosis), or Form 108-HL (hearing loss), as appropriate, or on such other forms as the commissioner may designate, except that an arbitrator or administrative law judge may permit the introduction of other reports.

(3) Medical reports shall be signed by the physician making the report, or be accompanied by an affidavit from the physician or submitting party or representative verifying the authenticity of the report.

(4) Medical reports shall include within the body of the report or as an attachment, a statement of qualifications of the person making the report. If the qualifications of the physician who prepared the written medical report have been filed with the commissioner and the physician assigned a medical qualifications index number, reference may be made to the physicians index number in lieu of attaching qualifications.

(5) Narratives in medical reports shall be typewritten. Other portions, including spirometric tracings, shall be clearly legible.

(6) Upon notice, a party may file the testimony of two (2) physicians, either by deposition or medical report, which shall be admitted into evidence without further order if no objection is filed. Objection to the filing of a medical report shall be filed within ten (10) days of the notice or the motion for admission. Grounds for the objection shall be stated with particularity. The arbitrator or administrative law judge shall rule on the objection within fifteen (15) days of the filing.

(7) In proceedings before an administrative law judge, if a medical report is admitted as direct testimony, any adverse party may depose the reporting physician in a timely manner as if on cross-examination at its own expense.

Section 11. Interlocutory Relief. (1) At any time during a claim, a party may seek any or all of three (3) forms of interlocutory relief:

(a) Interim payment of income benefits for total disability pursuant to KRS 342.730(1)(b);

(b) Medical benefits pursuant to KRS 342.020;

(c) Rehabilitation services pursuant to KRS 342.710;

(2) Any response to a request for interlocutory relief shall be served within twenty (20) days from the date of the request.

(3) Entitlement to interlocutory relief may be shown by means of affidavit, deposition, or other evidence of record demonstrating the requesting party is eligible under KRS Chapter 342 and will suffer irreparable injury, loss or damage pending a final decision on the application. Rehabilitation services may be ordered while the claim is

pending upon showing that immediate provision of services will substantially increase the probability that the plaintiff will return to work.

(4) When interlocutory relief is awarded in the form of income benefits, the application shall be placed in abeyance unless a party shows irreparable harm thereby. The arbitrator or administrative law judge may require periodic reports as to the physical condition of the plaintiff. Upon motion and a showing of cause, or upon the arbitrator or administrative law judge's own motion, interlocutory relief may be terminated and the claim removed from abeyance.

(5) An attorney's fee in the amounts authorized by KRS 342.320 but in no event to exceed twenty (20) percent of the weekly income benefits awarded pursuant to a request for interlocutory relief may be granted. The approved fee shall be deducted in equal amounts from the weekly income benefits awarded and shall be paid directly to the attorney.

(6) An appropriate party may use the following sample forms provided by the department with regard to interlocutory relief:

(a) Motion for interlocutory relief;

(b) Affidavit for payment of medical expenses;

(c) Affidavit for payment of temporary total disability; and

(d) Affidavit regarding rehabilitation services.

Section 12. Appeals to Administrative Law Judges from Benefit Review Determinations. (1) Within thirty (30) days after the date of the filing of a written benefit review determination or ruling on petition for reconsideration from that benefit review determination by an arbitrator, any parties aggrieved by the determination may appeal to an administrative law judge.

(2) The appeal shall be initiated by filing a "Request for Hearing before an Administrative Law Judge". The appealing party shall be designated as petitioner and all parties against whom the appeal is taken as respondents. The petitioner shall certify copies have been served upon all other parties.

(3) The commissioner shall assign the claim to an administrative law judge and shall notify the parties of the schedule for presentation of proof and the time and place of the hearing. The scheduling order shall provide forty-five (45) days for all parties to present proof, thirty (30) days for respondents only, and fifteen (15) days for rebuttal.

(4) Within fifteen (15) days following assignment to an administrative law judge, the parties shall file a statement of proposed stipulations, notice of contested issues, and designation of any evidence in the benefit review record upon which they intend to rely on appeal before the administrative law judge.

(5) The administrative law judge may order an informal conference for the purpose of defining and narrowing the issues, discussing settlement, and considering other relevant matters that may aid in the disposition of the case.

(6) At least fifteen (15) days prior to the scheduled hearing, all parties shall serve witness lists and copies of known exhibits on all other parties and upon the commissioner. Except for good cause shown, persons who are not listed as witnesses shall not present testimony. Witness lists shall state the name of each proposed witness and summarize the testimony of the witness, and shall identify matters in controversy. For medical witnesses, the summary shall include a diagnosis, the physical findings, the results of diagnostic studies supporting the diagnosis, and an assessment of functional impairment in accordance with the most recent edition of the AMA Guides to Evaluation of Permanent Impairment.

(7) Except for evidence timely designated by the parties, information submitted to the arbitrator shall not be considered evidence before the administrative law judge. Proof and discovery before the administrative law judge shall be by way of notice of introduction of medical reports and depositions of lay witnesses. However, a report of a medical evaluator pursuant to KRS 342.315 shall become evidence before the administrative law judge without the filing of a notice or motion.

(8) If, during the pendency of a claim before an administrative law judge, the parties voluntarily resolve a claim, an Agreement as to Compensation (Form 110) or agreed resolution of the claim shall be submitted for the approval of the administrative law judge.

Section 13. Appeals to Administrative Law Judges from Final Orders. (1) Within thirty (30) days after a final order of an arbitrator other than a benefit review determination or ruling on a petition for reconsideration from that benefit review determination, any party aggrieved by the order may file a "Request for De Novo Review by an Administrative Law Judge". As used in this section "final order" means one that grants or denies the ultimate relief sought as to all parties without the need for further steps to be taken.

(2) The appealing party shall be designated as petitioner and all other parties shall be designated as respondents. The petitioner shall certify copies have been served upon all other parties.

(3) The request for de novo review by an administrative law judge, shall not exceed five (5) pages, and shall contain a clear and concise statement of the material facts, the questions of law involved and the specific reasons for which the request was filed. The request shall cite any authority for petitioner's position.

(4) The respondents shall have fifteen (15) days thereafter in which to file responses which shall not exceed five (5) pages, setting forth the basis of their opposition to the request.

(5) The commissioner shall refer the matter to an administrative law judge, who shall issue a decision affirming, modifying, or setting aside the appealed order within thirty (30) days after the date of the last response or the date on which the response was due.

Section 14. Transfer to Administrative Law Judge. (1) In the event an arbitrator determines the claim presents factual issues best resolved through a hearing before an administrative law judge, an order shall be entered by the arbitrator and shall be served upon all parties and the commissioner.

(2) The commissioner shall upon receipt of a transfer order issue an order scheduling proof time, assigning to an administrative law judge, and scheduling the time and place of hearing.

(3) Upon transfer to an administrative law judge, the claim shall proceed as provided in Section 12(3) to (8) of this administrative regulation. The parties shall continue to be designated as plaintiff and defendant after transfer.

Section 15. Evidence - Rules Applicable. (1) The Rules of Evidence prescribed by the Kentucky Supreme Court apply in all proceedings before an administrative law judge except as varied by specific statute and this administrative regulation.

(2) Affidavits submitted with an application for resolution of claim and in proceedings before an arbitrator shall constitute evidence before the arbitrator notwithstanding the Kentucky Rules of Evidence. Affidavits of parties and lay witnesses shall be permitted and encouraged in proceedings before an arbitrator.

(3) Any party may file as evidence before the arbitrator or administrative law judge pertinent material, and relevant portions of hospital, Armed Forces, or Social Security records. However, opinions of physicians which may be expressed in such records shall not be considered by an arbitrator or administrative law judge in violation of the limitation on the number of physician's opinions set forth in KRS 342.033.

Section 16. Extensions of Proof Time. (1) Extensions of time for producing evidence shall be granted only upon showing of circumstances preventing the party from timely introducing proof. Motions for extension of time shall be filed no later than five (5) days before the deadline sought to be extended. The motion or supporting affidavits shall set forth:

- (a) The efforts to produce the evidence in a timely manner;
- (b) Facts which prevented timely production; and

(c) The date of availability of the evidence, the probability of its production, and the materiality of the evidence.

(2) In the absence of compelling circumstances, only one (1) thirty (30) day extension shall be granted to each side for completion of discovery or proof by deposition.

(3) The granting of an extension of time for completion of discovery or proof shall enlarge the time to all plaintiffs if the extension is granted to a plaintiff and to all defendants should an extension be granted to a defendant, and shall extend the time of the adverse party automatically except when the extension is for rebuttal proof.

Section 17. Stipulation of Facts. (1) Refusal to stipulate facts which are not genuinely in issue warrants imposition of sanctions as provided in Section 25 of this administrative regulation. Assertion that a party has not had sufficient opportunity to ascertain relevant facts shall not be considered "good cause" in the absence of due diligence.

(2) Upon cause shown, a party may be relieved of a stipulation provided that the motion for relief is filed at least ten (10) days prior to the date of the hearing, or as soon as practicable after discovery that the stipulation was erroneous. Upon granting relief from a stipulation, the administrative law judge may grant a continuance of the hearing and additional proof time.

Section 18. Discovery and Depositions. (1) Discovery and the taking of depositions shall be in accordance with the provisions of Civil Rules 26 to 37, inclusive, except for Civil Rules 27, 33, and 36 which shall not apply to practice before the administrative law judges or the board. In proceedings before arbitrators, questions shall be propounded in accordance with Section 8 of this administrative regulation.

(2) Depositions may be taken by telephone provided the reporter administering the oath to the witness and reporting the deposition is physically present with the witness at the time the deposition is given. Notice of a telephonic deposition must relate the following information:

- (a) That the deposition is to be taken by telephone;
- (b) The address and telephone number from which the call will be placed to the witness;

(c) The address and telephone number of the place where the witness will answer the deposition call; and

(d) That all opposing parties may participate in the deposition either at the place where the deposition is being given, at the place the telephone call is placed to the witness, or by conference call. If a party elects to participate by conference call, that party must contribute proportionate costs of the conference call.

(3) The commissioner shall establish a medical qualifications index. An index number will be assigned to a physician upon the filing of the physician's qualifications. Any physician who has been assigned an index number may offer the assigned number in lieu of stating qualifications. Qualifications may be revised or updated by submitting revisions to the commissioner. Nothing in this rule shall preclude any party from inquiring further into the qualifications of a physician.

Section 19. Wage Certification. If at any time during the pendency of a claim wages are at issue, the employer shall promptly complete and serve a completed form AWW-1 on all other parties.

Section 20. Hearings. (1) At hearing, the parties shall present proof concerning contested issues. If plaintiff fails to appear, the administrative law judge may dismiss the case for want of prosecution, or if good cause is shown, the hearing may be continued.

(2) At the conclusion of the hearing, the claim may be taken under submission immediately or briefs may be ordered. Briefs shall not exceed fifteen (15) pages in length. Reply briefs are limited to five (5) pages. Permission to increase the length of a brief may be sought by motion. The administrative law judge may announce his decision

at the conclusion of the hearing or defer decision until rendering a written opinion. In any event, a decision shall be rendered no later than sixty (60) days following hearing. The time of filing a petition for reconsideration or notice of appeal shall not begin to run until after the "date of filing" of the written opinion as set forth in Section 1 of this administrative regulation.

Section 21. Petitions for Reconsideration. (1) Within fourteen (14) days of the filing of a benefit review determination or a final order or award of an arbitrator or administrative law judge, a party may petition for reconsideration, clearly stating the patent error which the petitioner seeks to have corrected and setting forth the authorities upon which petitioner relies. **The party filing the petition for reconsideration shall tender a proposed order granting the relief requested.**

(2) A response shall be served within ten (10) days after the date of filing of the petition.

(3) The arbitrator or administrative law judge shall act upon the petition within ten (10) days after the response is due.

Section 22. Benefit Calculations for Settlements. (1) For computing lump sum settlements, the employer shall utilize the prescribed discount rate for its weeks of liability only, not for the entire award period. No discount shall be taken on past due benefits by the employer or Special Fund. Lump sum settlements should be calculated as follows:

(a) Determine the entire lump sum liability:

1. Compute the remaining weeks of liability in the award by subtracting the number of weeks past due from the entire number of weeks in the award.

2. Discount the number of weeks remaining in the award at the prescribed discount rate.

3. Multiply the weekly benefit rate by the discounted number of weeks remaining (subparagraph 2 of this paragraph) in award. This product equals the entire future lump sum liability for the award.

4. Add the amount of past due benefits to the future lump sum liability award (subparagraph 3 of this paragraph). The sum represents the entire lump sum value of the award.

(b) Determine the employer's lump sum liability as follows:

1. The employer's future liability is computed by determining its total weeks of liability less the number of weeks of liability past due.

2. The number of weeks remaining shall be discounted at the prescribed discount rate and multiplied by the amount of the weekly benefit.

3. Multiply the number of past due weeks by the amount of the weekly benefit.

4. The employer's entire liability for lump sum payment is determined by adding the results of paragraph (e)2 and 3 of this subsection.

(c) Determine the Special Funds' portion of the lump sum liability by subtracting the value of the employer's liability in lump sum (paragraph (b) of this subsection) from the entire value of the lump sum settlement (paragraph (a) of this subsection). The remainder is the Special Fund's lump sum liability.

(2) Where the employer settles its liability for income benefits with the employee for a lump sum payment and thereafter a determination is made of the Special Fund's liability, the Special Fund's portion of income benefits shall be paid commencing with the date of approval of the employer's settlement and continuing for the balance of the compensable period.

Example #1. In a 1996 claim covered by KRS 342.1202 apportionment, an agreement between the employer and employee is reached settling the claim for a lump sum payment in the 150th week after permanent disability has commenced. It is subsequently determined that the worker has a forty (40) percent permanent partial occupational disability and the employee is a maximum wage earner. The Special Fund's payment period commences on the date of approval of the settlement agreement and extends for the balance of

the 425 week period or 275 weeks. The Special Fund's total liability for half of the forty (40) percent permanent partial disability award is computed, then divided by 275 weeks. Thus, the Special Fund's liability of \$26,515.75 ($\$311.96 \times 40\% \times 212.5$ weeks) is divided by the 275 weeks remaining for a weekly payment of \$96.42.

Example #2. Assume the same factual situation in example #1 with fifty (50) percent apportionment to the Special Fund, but increase the award to sixty (60) percent permanent partial disability. The Special Fund's payment period still commences on the date of approval of the settlement agreement and extends for the balance of the 520 week period or 370 weeks. Thus, the Special Fund's entire liability of \$48,666.80 ($\$311.96 \times 60\% \times 260$ weeks) would be paid out weekly at \$131.53 for 370 weeks. Figures in these examples are rounded to the nearest cent and do not include any adjustment for tier down of benefits pursuant to KRS 342.730(4).

(3) In computing settlements involving periodic payments, the employer shall pay its liability over the initial portion of the award, based on the number of weeks its liability bears to the entire liability upon the claim. Thereafter, the Special Fund shall make all remaining payments for the balance of the compensable period.

(4) Pursuant to KRS 342.265, election by the Special Fund to settle on the "same terms" as the employer means the Special Fund agrees to settle in the same manner as the employer in either a discounted lump sum or in periodic payments based upon its proportionate share of the permanent disability percentage paid by the employer. For example, if the employer pays in a lump sum, the Special Fund shall have the option to pay its proportionate liability in a discounted lump sum. "Same terms" does not include any additional payments the employer included for buy out of medical expenses, temporary total disability, rehabilitation, or other payments for which the Special Fund is not liable.

(5) Parties involved in a lump-sum settlement of future periodic payments shall use the six (6) percent present value table (May 1997 edition).

Section 23. Appeals to Workers' Compensation Board. (1) Within thirty (30) days after the date of filing of a final award or order of an administrative law judge any party aggrieved by the order may appeal to the board. As used in this section "final order" shall be determined in accordance with Civil Rule 54.02(1) and (2).

(2) An appeal shall be initiated by the filing of a notice of appeal denoting the appealing party as the petitioner and all parties against whom the appeal is taken as respondents. The administrative law judge who rendered the order appealed from shall be named as a respondent. If appropriate, the Director of the Special Fund or the Director of the Coal Workers' Pneumoconiosis Fund shall be named as a "respondent" pursuant to KRS 342.120 or 342.316. The workers' compensation claim number shall be set forth in all pleadings before the board.

(3) Any party other than the petitioner may file a cross-appeal through notice of cross-appeal filed within ten (10) days after notice of appeal is served. The cross-appeal shall designate the parties as appropriate (i.e., petitioner-cross-respondent).

(4) Notice of appeal, cross-appeal and all other pleadings before the board shall be served as provided in Section 3 of this administrative regulation. The commissioner shall issue an acknowledgement to all parties of the filing of a direct appeal only.

(5) If a ground for the appeal is fraud or misconduct pursuant to KRS 342.285(2), the board shall immediately schedule a hearing on that issue. All subsequent appeal time in the case shall be calculated from the date the transcript of hearing is filed instead of the date of filing of notice of appeal.

(6) Petitioner's brief shall be filed within thirty (30) days of the filing of the notice of appeal. The organization and contents of petitioner's brief shall be as provided in Civil Rule 76.12(4)(c) except no index shall be required and the appendix shall only include copies of decision appealed, petitions for reconsideration, rulings on

petitions, and cases cited from federal courts and foreign jurisdictions.

(7) Respondent's brief shall be filed within thirty (30) days of the date petitioner's brief was served. Organization and contents shall be provided in Civil Rule 76.12(4)(d) except no index shall be required and the appendix shall only include copies of cases cited from federal courts and foreign jurisdictions. If the respondent is also a cross-petitioner, a combined brief shall address issues raised by the cross-appeal.

(8) Failure of a party to timely file a brief is ground for imposition of one (1) or more of the following penalties:

- (a) Affirmation or reversal of the final order;
- (b) Striking of an untimely brief;
- (c) A fine of not more than \$500; or
- (d) Dismissal of appeal of petitioner's original brief.

(9) Petitioner's reply brief may be served within fifteen (15) days after the date on which the last respondent's brief was served or due, whichever is earlier. The organization and contents of the petitioner's reply brief shall be as provided in Civil Rule 76.12(4)(e), except that no appendix, index, or contents page shall be required. If the petitioner is also a cross-respondent, a combined brief shall address issues raised by the cross-petitioner's brief.

(10) If a cross-appeal has been filed, the cross-petitioner's reply brief may be served within fifteen (15) days after the date on which the last cross-respondent's brief was served or due, whichever is earlier. The organization and contents of the cross-petitioner's reply brief shall be as provided in Civil Rule 76.12(4)(e) except that no appendix, index, or contents page shall be required.

(11) Petitioner's brief and the respondent's brief shall be limited to fifteen (15) pages each, reply briefs to five (5) pages, and combined briefs to twenty (20) pages. Permission to increase the length of a brief shall be sought by motion.

(12) All pleadings shall conform to the requirements set forth in Civil Rule 7.02(4) and shall be filed without covers. The style of the case, including the claim number and title of the pleading, shall appear on the first page of the pleading.

(13) The board shall enter its decision affirming modifying, or setting aside the order appealed from, or, in its discretion may remand the claim to an administrative law judge for further proceedings. Motions for reconsideration are not permitted.

(14) The decision of the board may be appealed to the Kentucky Court of Appeals as provided in Civil Rule 76.25.

(15) Except for motions that call for final disposition of an appeal, any board member designated by the chairman may dispose of any motion; and, any intermediate order may be issued on the signature of any board member.

Section 24. Coverage - Insured Status. (1) Arbitrators and administrative law judges shall take judicial notice that compliance with KRS Chapter 342 is mandatory except for those employers exempted by KRS 342.650 and those employees rejecting the provisions of KRS Chapter 342 pursuant to KRS 342.395 and 342.400.

(2) Upon the filing of an application for resolution of claim, the commissioner shall ascertain whether the employer or any other person against whom a claim is filed and who is not exempted by KRS 342.650 has secured payment of compensation by obtaining insurance coverage or qualifying as a self-insurer pursuant to KRS 342.340. Should an employer not have insurance coverage or qualify as a self-insurer, the commissioner shall notify the arbitrator or administrative law judge and all parties by service of a certification of no coverage.

Section 25. Withdrawal of Records. (1) No portion of any original record of the department shall be withdrawn except upon an order of the commissioner, an administrative law judge, or a member of the board.

(2) All physical exhibits, including x-rays, shall be disposed of

sixty (60) days after the order resolving the claim has become final. A party filing an exhibit may make arrangements to claim an exhibit prior to that time. If an unclaimed exhibit has no money value, it shall be destroyed; if an unclaimed exhibit has a value of more than \$100, it shall be sold as surplus property; if an unclaimed exhibit has a value of less than \$100, it shall be donated to the appropriate state agency; and, if an unclaimed exhibit has historic value, it shall be sent to the state archives.

Section 26. Sanctions. Pursuant to KRS 342.310, an arbitrator, an administrative law judge, and the board may assess costs upon determination that proceedings have been brought, prosecuted, or defended without reasonable grounds. Whenever justice will be served, penalties shall be assessed against an offending attorney or representative rather than against the client the attorney represents. Where a party is a governmental agency and attorney's fees are assessed, such fees shall include fees for the services of an attorney in public employment, measured by the reasonable cost of like services had a private attorney been retained. Failure of a party to timely file any pleading required by this administrative regulation may be treated by an arbitrator, an administrative law judge, or the board as prosecuting or defending without reasonable grounds.

Section 27. Payment of Compensation from Uninsured Employers' Fund. (1) Payment from the Uninsured Employers' Fund of compensation shall be made upon the determination by an arbitrator or administrative law judge that the responsible employer failed to secure payment of compensation as provided by KRS Chapter 342.340 and:

(a) Thirty (30) days have expired since the finality of an award and a party in interest certifies the responsible employer has failed to initiate payments in accordance with that award; or

(b) Upon showing that the responsible employer has filed a petition under any section of the Federal Bankruptcy code; or

(c) The plaintiff or any other party in interest has filed in the circuit court of the county where the injury occurred an action pursuant to KRS 342.305 to enforce payment of the award against the uninsured employer, and there has been default in payment of the judgment by the employer.

(2) The plaintiff may by motion and affidavit demonstrate compliance with this section and request an arbitrator or administrative law judge to order payment from the Uninsured Employers' Fund in accordance with KRS 342.760.

(3) This section shall not be construed to prohibit the voluntary payment of compensation by an employer, or any other person liable for payment thereof, who has failed to secure payment of compensation as provided by KRS Chapter 342, the compromise and settlement of a claim, or the payment of benefits by the Special Fund.

(4) The sample form, Motion for Payment from Uninsured Employers' Fund, provided by the department may be used by the employee.

Section 28. Use of American Medical Association Guidelines in Coal Workers' Pneumoconiosis Cases. (1) Predicted normal values for FVC and FEV1 shall be determined in accordance with the latest edition of the American Medical Association Guideline. Age is to be determined as of the date of the evaluation. Height is to be measured while the plaintiff stands in his stocking feet and shall be rounded to the nearest centimeter. If the plaintiff's height is an odd number of centimeters, the next highest even height in centimeters shall be used.

(2) Formulas established by the guidelines for predicted normal FVC and FEV1, shall be applied and predicted values computed. For example, the formula applicable to men for FVC and FEV1 as set forth in the Fourth Edition of the guides are:

FVC in liters equals 0.06 times H minus 0.0244 times A minus 4.650.

FEV1 in liters equals 0.0414 times H minus 0.0244 times A minus 2.19.
H is height in centimeters.
A is age in years.

Section 29. Request for Participation by the Kentucky Coal Workers' Pneumoconiosis Fund. (1) Following a final award or order approving settlement of a claim for coal workers' pneumoconiosis benefits pursuant to KRS 342.732, the employer shall tender a written request for participation to the Kentucky coal workers' pneumoconiosis fund within thirty (30) days. This request shall be in writing and upon a form supplied by the Director of the Kentucky Coal Workers' Pneumoconiosis fund and shall be accompanied by the following documents:

(a) Plaintiff's application for resolution of claim;
(b) Defendant's notice of resistance, notice of claim denial or acceptance, and any special answer;

(c) All medical evidence upon which the award or settlement was based;

(d) Final benefit review determination, opinion, or order of an arbitrator or administrative law judge determining liability for benefits, or order approving settlement agreement. If an administrative law judge's award was appealed, appellate opinions shall be attached;

(e) If the request for participation includes retraining incentive benefits under KRS 342.732, the employer shall certify that the plaintiff meets the relevant statutory criteria;

(f) If the request for participation is for settlement of a claim, the employer shall certify that the settlement agreement represents liability for benefits in the claim, and does not include any sums for claims which the plaintiff may have against the employer.

(2) Within thirty (30) days following receipt of a completed request for participation, the director shall notify the employer and all other parties of acceptance or denial of the request.

(3) A denial may be made upon a finding by the director that the employer failed to defend the claim or entered into a settlement agreement not supported by the medical evidence or which was procured by fraud or mistake. Denial shall be in writing and shall state the specific reasons for the director's action.

(4) Denial of a request for participation may be appealed to an administrative law judge within thirty (30) days following receipt. The administrative law judge shall determine whether the denial was arbitrary, capricious, or in excess of the statutory authority of the director, but shall not reexamine the weight assigned to evidence by an arbitrator or administrative law judge in a benefit review determination or award.

(5) The employer shall promptly commence payment on all of the liability pursuant to the benefit review determination, award, or order and shall continue until the liability of the Kentucky Coal Workers' Pneumoconiosis fund is established. This duty of prompt payment shall continue during pendency of an appeal from denial of a request for participation.

(6) Upon an appeal from the denial of a request for participation, if the Kentucky Coal Workers' Pneumoconiosis fund does not prevail, it shall reimburse the employer for its proportionate share of the liability together with interest at the rate set forth in KRS 342.040.

Section 30. Assignment to Arbitrators. (1) The assignment of appropriate claims to arbitrators pursuant to KRS 342.270(2) shall begin March 15, 1997.

(2) Provisions in this administrative regulation which apply solely to practice before an arbitrator shall apply only to claims which are assigned to an arbitrator pursuant to KRS 342.270(2) and Section 28(1) of this administrative regulation.

Section 31. Forms. (1) After March 15, 1997, the Department of Workers Claims will no longer accept applications or forms in use prior to the forms adopted by this administrative regulation. Outdated

applications or forms submitted after March 15, 1997 may be rejected and returned to the applicant or person submitting the form. If the application or form is resubmitted on the proper form within twenty (20) days of the date it was returned, the filing shall date back to the date the application or form was first received by the commissioner. Otherwise, the date of the second receipt shall be the filing date.

(2) The following material is incorporation by reference:

(a) Form 101, "Application for Resolution of Injury Claim", (January 1, 1997 Edition), Department of Workers Claims;

(b) Form 102, "Application for Resolution of Occupational Disease Claim", (January 1, 1997 Edition), Department of Workers Claims;

(c) Form 103, "Application for Resolution of Hearing Loss Claim", (January 1, 1997 Edition), Department of Workers Claims;

(d) Form 104, "Plaintiff's Employment History", (January 1, 1997 Edition), Department of Workers Claims;

(e) Form 105, "Plaintiff's Chronological Medical History", (January 1, 1997 Edition), Department of Workers Claims;

(f) Form 106, "Medical Waiver and Consent", (January 1, 1997 Edition), Department of Workers Claims;

(g) Form 107-I, "Medical Report - Injury", (January 1, 1997 Edition), Department of Workers Claims;

(h) Form 107-P, "Medical Report - Psychological", (January 1, 1997 Edition), Department of Workers Claims;

(i) Form 108-OD, "Medical Report - Occupational Disease", (January 1, 1997 Edition), Department of Workers Claims;

(j) Form 108-CWP, "Medical Report - Coal Workers' Pneumoconiosis", (January 1, 1997 Edition), Department of Workers Claims;

(k) Form 108-HL, "Medical Report - Hearing Loss", (January 1, 1997 Edition), Department of Workers Claims;

(l) Form 109, "Attorney Fee Election", (March 15, 1995 Edition), Department of Workers Claims;

(m) Form 110-I, "Agreement - Injury", (January 1, 1997 Edition), Department of Workers Claims;

(n) Form 110-O, "Agreement - Occupational Disease", (January 1, 1997 Edition), Department of Workers Claims;

(o) Form 111- Injury and Hearing Loss, "Notice of Claim Denial or Acceptance", (January 1, 1997 Edition), Department of Workers Claims;

(p) Form 111-OD, "Notice of Claim Denial or Acceptance", (January 1, 1997 Edition), Department of Workers Claims;

(q) Form 115, "Social Security Release Form", (January 1, 1997 Edition); and Department of Workers Claims;

(r) Form AWW - 1, "Average Weekly Wage Form", (January 1, 1997 Edition), Department of Workers Claims;

(s) Lump Sum Settlement Tables, (April 15, 1997 Edition), Department of Workers Claims;

(t) Six (6) Percent Present Value Table (May, 1997 Edition);

(v) Sample form, Affidavit for Payment of Medical Expenses (May 29, 1997 Edition);

(w) Sample form, Affidavit for Payment of Temporary Total Disability (May 29, 1997 Edition);

(x) Sample form, Affidavit Regarding Rehabilitation Services (May 29, 1997 Edition);

(y) Sample form, Petition for Vocational Rehabilitation Training (May 29, 1997 Edition);

(z) Sample form, Motion for Interlocutory Relief (May 29, 1997 Edition);

(aa) Sample form, Motion to Reopen by Employee (May 29, 1997 Edition);

(bb) Sample form, Motion to Reopen by Defendant (May 29, 1997 Edition);

(cc) Sample form, Motion to Reopen KRS 342.732 Benefits (May 29, 1997 Edition);

(dd) Sample Form, Joint Motion and Agreement to Waive Vocational Rehabilitation Evaluation (May 29, 1997 Edition);

(ee) Sample form, Motion for Payment from Uninsured Employers' Fund (May 29, 1997 Edition).

(3) This material may be inspected copied or obtained at the Department of Workers' Claims Monday through Friday, 9 a.m. to 4 p.m. at the following locations:

(a) Frankfort - Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601;

(b) Paducah - 220B North 8th Street, Paducah, Kentucky 42001; and

(c) Pikeville - 412 Second Street, Pikeville, Kentucky 41501.

[Definitions. (1) "Administrative law judge" means an individual appointed pursuant to KRS 342.230(3).

(2) "Board" means the Workers' Compensation Board created pursuant to KRS 342.215(1).

(3) "Civil rule" means the Kentucky Rules of Civil Procedure.

(4) "Commissioner" means the commissioner of the Department of Workers' Claims appointed pursuant to KRS 342.228.

(5) "Date of filing" means the date a pleading, motion, or other document is received by the commissioner at the Department of Workers' Claims in Frankfort, Kentucky, except final orders and opinions of administrative law judges and the board, which shall be deemed "filed" three (3) days after the date set forth on the final order or opinion.

(6) "Employer" means and includes individuals, partnerships, voluntary associations and corporations.

(7) "An employer who has not secured payment of compensation" means any employer who employs covered employees as defined by KRS 342.640 but has not complied with KRS 342.340.

(8) "Special defenses" means defenses that shall be raised by "special answer" filed within twenty (20) days of the date of the scheduling order, or within ten (10) days after discovery of facts supporting the defense if discovery could not have been had earlier in the exercise of due diligence. Special defenses are waived if not timely raised. Special defenses which shall be pleaded are defenses arising under:

(a) KRS 342.035(3) unreasonable failure to follow medical advice;

(b) KRS 342.165 failure to comply with safety regulation;

(c) KRS 342.316(6) and 342.335 false statement on employment application;

(d) KRS 342.395 voluntary rejection of KRS Chapter 342;

(e) KRS 342.610(3) voluntary intoxication and self-infliction of injury;

(f) KRS 342.710(5) refusal to accept rehabilitation services; and

(g) Running of periods of limitations or repose under KRS 342.185, 342.270, 342.316, or any other applicable statute.

Section 2. Parties. (1) The party making the original application for adjustment of claim pursuant to KRS 342.270 shall be designated as "plaintiff" and adverse parties "defendants".

(2) All persons shall be joined as plaintiffs in whom any right to any relief pursuant to KRS Chapter 342, arising out of the same transaction or occurrence, is alleged to exist. If any person should refuse to join as a plaintiff, that person shall be joined as a defendant, and the fact of refusal to join as a plaintiff shall be pleaded.

(3)(a) All persons shall be joined as defendants against whom the ultimate right to any relief pursuant to KRS Chapter 342 may exist, whether jointly, severally, or in the alternative. An administrative law judge may order, upon a proper showing, that a party be joined or dismissed.

(b) The special fund shall be joined as a defendant in accord with the provisions of KRS 342.120, 342.316(10)(b), and 342.1202.

(c) Joinder shall be sought by motion as soon as practicable after legal grounds for joinder are known. Notice of joinder and a copy of the claim file shall be served in the manner ordered by the administrative law judge.

Section 3. Pleadings. (1) An application for adjustment of claim and all other pleadings shall be typewritten, and be submitted upon the printed forms prescribed by the commissioner in this administra-

tive regulation, where applicable.

(2) An application for adjustment of claim shall be filed with sufficient copies for service on all parties. The commissioner shall make service by first class mail. Incomplete applications shall not be filed, and shall be returned to the applicant. If the application is resubmitted in proper form within twenty (20) days of the date it was returned, the filing shall relate back to the date the application was first received by the commissioner. Otherwise, the date of second receipt shall be the filing date.

(3) All pleadings shall include a certification of service upon other parties in conformity with Rule 5.02, Kentucky Rules of Civil Procedure. After the application has been assigned to an administrative law judge, subsequent pleadings shall include within the style of the claim, and immediately before the claim number, "Before (name); ALJ." Upon consolidated claims, the most recent claim number shall be set forth first. Notices of deposition and physical examination are to be served upon the parties only and shall not be filed with the commissioner.

Section 4. Motions. (1) The party filing a motion shall tender a proposed order granting the relief requested.

(2) The movant may file a brief memorandum supporting the motion, and opposing parties may file brief memoranda in reply. Further memoranda (e.g., reply to response) shall not be filed.

(3) Every motion and response, the grounds of which depend upon the existence of facts not appearing in evidence, shall be supported by affidavits demonstrating such facts.

(4) Every motion, the grounds of which depend upon the existence of facts which movant contends are shown in the evidence or are admitted by the pleadings, shall make reference to the point in the record where that evidence or admission is found.

(5) A motion, other than to reopen pursuant to KRS 342.125 and for interlocutory relief pursuant to Section 10 of this administrative regulation, may be considered ten (10) days after the date of filing. A response will be considered if filed prior to the tenth day after the filing of the motion.

(6)(a) A motion to reopen shall be accompanied by as many of the following items as may be applicable:

1. A current medical release Form 106 executed by plaintiff;

2. An affidavit evidencing the grounds set forth in KRS 342.125;

3. A current medical report showing a change in condition and occupational disability;

4. A copy of the opinion and award or settlement sought to be reopened.

(b) A motion to reopen shall not be considered until twenty-five (25) days after the date of filing. Responses may be served within twenty (20) days of filing the motion to reopen.

(7) Motion for allowance of an attorney's fee shall be made within thirty (30) days following finality of the award or settlement upon which the fee request is based and be served upon the adverse parties and the attorney's client in conformity with Section 3(3) of this administrative regulation. The motion shall set forth the fee requested and mathematical computations establishing that the request is within the limits set forth in KRS 342.320. The motion shall be accompanied by affidavit of counsel detailing the services rendered and the time expended, Form 109 as required by KRS 342.320(3), and a copy of the contingency fee contract.

Section 5. (1) Application for adjustment of an Injury Claim Form 101 shall be filed with the following completed documents:

(a) Work history (Form 104);

(b) Medical history (Form 105);

(c) Medical release (Form 106); and

(d) One (1) medical report describing the injury which is the basis of the claim; and, if a psychological condition is alleged, an additional medical report establishing the presence of a mental impairment or disorder. Medical reports required under this paragraph may consist

of the legible handwritten notes of a treating physician. Medical reports filed with an application shall not be considered as evidence unless notice is filed pursuant to Section 14 of this administrative regulation.

(2) Defendants may file answers to the application within twenty (20) days after the date of service. If none are filed, all allegations of the application will be deemed denied. If, however, an answer other than one (1) containing a special defense under Section 1(8) of this administrative regulation is filed, only those allegations which are specifically denied shall be deemed disputed.

(3) Proof taking and discovery shall proceed pursuant to the scheduling order issued by the commissioner, generally providing sixty (60) days for all parties; thirty (30) days thereafter for defendants only; and, plaintiffs fifteen (15) days thereafter for rebuttal only.

(4) During the pendency of a claim any party obtaining a medical examination or a vocational evaluation shall serve a copy of the report of the examiner or evaluator upon all other parties within thirty (30) days of receipt.

(5) Within thirty (30) days after an application has been filed, the commissioner shall assign the claim to an administrative law judge and schedule the time and place of the prehearing conference. The conference shall be scheduled no earlier than fifteen (15) days after the last day of discovery and proof time.

Section 6. Application for Adjustment of an Occupational Disease Claim. (1) Form 102 shall be filed with the following completed attachments:

(a) Those items set forth in Section 5(1)(a) through (e) and, additionally;

(b) Two (2) written medical reports supporting the claim in compliance with KRS 342.316(2)(b)1. These reports shall not be considered evidence unless notice is filed pursuant to Section 14 of this administrative regulation.

(2) Upon service of Form 102 and thereafter for sixty (60) days, defendants may depose witnesses and cause the plaintiff to be examined by medical experts. Reports shall be exchanged pursuant to Section 5(4) of this administrative regulation.

(3) Within sixty (60) days after the date of service of Form 102 each defendant shall file a notice of election to resist the application pursuant to KRS 342.316(2)(c)3, or eligibility of the plaintiff for benefits shall be deemed conceded. If a notice of election to resist an application has been timely filed, the commissioner shall assign the case to an administrative law judge and issue a scheduling order in the same manner as under Section 5 of this administrative regulation.

(4) Special defenses as described in Section 1(8) of this administrative regulation shall be pleaded within sixty (60) days after the date of service of Form 102 or within ten (10) days of discovery if discovery could not have been had earlier in the exercise of due diligence.

(5) If a medical report filed with the Form 102 application contains findings of separate physicians relative to x-ray examination, spirometric testing or clinical examination, it shall be considered a single medical report.

Section 7. Application for Retraining Incentive Benefits. (1) Form 103 shall be filed with the completed documents required by Section 5(1)(a) through (e) of this administrative regulation and additionally two (2) x-ray reports complying with KRS 342.316.

(2) Discovery and processing of retraining incentive benefit claims shall proceed as set forth in Section 5(2) through (6) of this administrative regulation.

Section 8. Prehearing Conference. (1) The prehearing conference is an informal procedure. No transcript or recordings of the proceedings shall be made. At the conference parties shall dispose of controversies when possible and define disputed issues. Witness lists, copies of known exhibits, and proposed stipulations shall be ex-

changed fifteen (15) days before the conference. Lists shall state the name of each proposed witness and summarize the testimony of the witness. Except for good cause shown, persons who were not listed as witnesses shall not present testimony. For medical witnesses, the summary shall include a diagnosis, the physical findings, the results of diagnostic studies supporting the diagnosis, any assessment of functional impairment and a discussion of any restrictions of work activities.

(2) At the prehearing conference, the administrative law judge may limit witnesses and exhibits to be presented at hearing.

(3) The plaintiff and counsel and all other parties, either personally or through counsel, shall attend the prehearing conference. Representatives shall hold authority to resolve issues and make offers of settlement. Under compelling circumstances, the administrative law judge may waive the requirement that the plaintiff personally attend.

(4) Rescheduling or postponement of a prehearing conference shall be sought by motion filed at least fifteen (15) days prior to the scheduled conference.

(5) At the conclusion of the conference, the administrative law judge shall prepare a summary of all contested issues and stipulated matters which shall be signed by parties or counsel. Only the listed contested issues shall be the subject of further proceedings.

(6) Upon motion, the administrative law judge may order additional discovery or proof to be taken between the prehearing conference and the hearing.

(7) The hearing shall be scheduled within sixty (60) days of the prehearing conference.

(8) If the parties agree upon a settlement, a settlement agreement (Form 110) shall be submitted for approval of the administrative law judge and acted upon within ten (10) days.

Section 9. Ombudsman Program. (1) The commissioner may direct on a pilot basis that a mediation conference be held before an ombudsman pursuant to KRS 342.320. Such conferences may be held in advance of, or by agreement of all parties in lieu of, the prehearing conference described above. The timing of discovery and proof may be varied upon "pilot claims" from those time frames otherwise prescribed in these rules. Scheduling orders upon "pilot claims" shall clearly set forth the purpose, time and place of proceedings before the ombudsman and subsequent proceedings before an administrative law judge.

(2) All parties shall promptly comply with information requests from an ombudsman and appear either personally or by counsel at conferences before the ombudsman.

Section 10. Interlocutory Relief. (1) During the pendency of a claim, a party may seek any or all of three (3) forms of interlocutory relief:

(a) Interim payment of income benefits for total disability pursuant to KRS 342.730(1)(b);

(b) Medical benefits pursuant to KRS 342.020;

(c) Rehabilitation services pursuant to KRS 342.710.

(2) Any response to a request for interlocutory relief shall be served within twenty (20) days from the date of the issuance of the scheduling order, or within twenty (20) days of the filing of any subsequent motion.

(3) A request for interlocutory relief becomes ripe for decision twenty (20) days after the issuance of the scheduling order where relief has been requested in the Form 101 application. Where request for interlocutory relief has been made by motion, the request becomes ripe twenty (20) days after service of the motion.

(4) Entitlement to interlocutory relief may be shown by means of affidavit, deposition, or other evidence of record demonstrating that movant is eligible under KRS Chapter 342 and will suffer irreparable injury, loss, or damage pending a final decision on the application. Rehabilitation services may be ordered while the claim is pending upon a showing that immediate provision of services will substantially

increase the probability that the plaintiff will return to work.

(5) When interlocutory relief is awarded in the form of income benefits the application shall be placed in abeyance, unless a party shows irreparable harm thereby. The administrative law judge may require periodic report as to the physical condition of the plaintiff. Upon motion and a showing of cause, or upon the administrative law judge's own motion, interlocutory relief may be terminated and the claim removed from abeyance.

(6) Interlocutory relief may not be granted upon a claim for retraining incentive benefits.

(7) An attorney's fee in the amounts authorized by KRS 342.320 but in no event to exceed twenty (20) percent of the weekly income benefits awarded pursuant to a request for interlocutory relief may be granted. The approved fee shall be deducted in equal amounts from the weekly income benefits awarded and shall be paid directly to the attorney.

Section 11. Hearings. (1) At hearing, the parties shall present proof concerning contested issues. If plaintiff fails to appear, the administrative law judge may dismiss the case for want of prosecution, or if good cause is shown, the hearing may be continued.

(2) At the conclusion of the hearing, the claim may be taken under submission immediately, or briefs may be ordered. Briefs shall not exceed fifteen (15) pages in length. Reply briefs are limited to five (5) pages. Permission to increase the length of a brief may be sought by motion. The administrative law judge may announce his decision at the conclusion of the hearing or defer decision until rendition of a written opinion. In any event, a decision shall be rendered no later than sixty (60) days following hearing. The time for filing a petition for reconsideration or notice of appeal shall not begin to run until the "date of filing" of the written opinion as set forth in Section 1(5) of this administrative regulation.

Section 12. Petitions for Reconsideration. (1) Within fourteen (14) days of the filing of the order, award, or decision as set forth in Section 1(4) of this administrative regulation, a party may petition for reconsideration clearly stating the patent error which the petitioner seeks to have corrected and setting forth the authorities upon which petitioner relies.

(2) A response shall be served within ten (10) days after the date of filing of the petition.

(3) The administrative law judge shall act upon the petition within ten (10) days after the response is due.

Section 13. Appeals to the Workers' Compensation Board. (1) Within thirty (30) days after the date of filing of a final order of an administrative law judge as set forth in Section 1(5) of this administrative regulation any party aggrieved by the order may appeal to the board. As used in this section "final order" shall be determined in accordance with Civil Rule 54.02(1) and (2).

(2) An appeal shall be initiated by the filing of a notice of appeal denoting the appealing party as the "petitioner" and all parties against whom the appeal is taken as "respondents." The administrative law judge who rendered the order appealed from shall be named as a "respondent." If appropriate, the Director of the Special Fund shall be named as a "respondent" pursuant to KRS 342.316(10)(b). The workers' compensation claim number shall be set forth in all pleadings before the board.

(3) Any party other than the petitioner may file a cross appeal through notice of cross appeal filed within ten (10) days after notice of appeal is served. The cross appeal shall designate the parties as appropriate (i.e., petitioner cross respondent).

(4) Notice of appeal, cross appeal and all other pleadings before the board shall be served as provided in Section 3(3) of this administrative regulation. The commissioner shall issue an acknowledgement to all parties of the filing of a direct appeal only.

(5) If a ground for the appeal is fraud or misconduct pursuant to

KRS 342.285(2), the board shall immediately schedule a hearing on that issue. All subsequent appeal time in the case shall be calculated from the date the transcript of hearing is filed instead of the date of filing of the notice of appeal.

(6) Petitioner's brief shall be filed within thirty (30) days of filing of the notice of appeal. The organization and contents of the petitioner's brief shall be as provided in Civil Rule 76.12(4)(e) except no index shall be required and the appendix shall only include copies of the decision appealed, petitions for reconsideration, rulings on petitions, and cases cited from federal courts and foreign jurisdictions.

(7) Respondent's brief shall be filed within thirty (30) days of the date petitioner's brief was served. Organization and contents shall be as provided in Civil Rule 76.12(4)(d) except no index shall be required and the appendix shall only include copies of cases cited from federal courts and foreign jurisdictions. If the respondent is also a cross-petitioner, a combined brief shall address issues raised by the cross appeal.

(8) Failure of a party to timely file a brief is ground for imposition of one (1) or more of the following penalties:

(a) Affirmation or reversal of the final order;

(b) Striking of an untimely brief; or

(c) A fine on counsel of not more than \$500.

(9) Petitioner's reply brief may be served within fifteen (15) days after the date on which the last respondent's brief was served or due, whichever is earlier. The organization and contents of the petitioner's reply brief shall be as provided in Civil Rule 76.12(4)(e), except that no appendix, index, or contents page shall be required. If the petitioner is also a cross respondent, a combined brief shall address issues raised by the cross petitioner's brief.

(10) If a cross appeal has been filed, the cross petitioner's reply brief may be served within fifteen (15) days after the date on which the last cross respondent's brief was served or due, whichever is earlier. The organization and contents of the cross petitioner's reply brief shall be as provided in Civil Rule 76.12(4)(e) except that no appendix, index, or contents page shall be required.

(11) Petitioner's brief and the respondent's brief shall be limited to fifteen (15) pages each, reply briefs to five (5) pages, and combined briefs to twenty (20) pages. Permission to increase the length of a brief shall be sought by motion.

(12) All pleadings shall conform to the requirements set forth in Civil Rule 7.02(4) and shall be filed without covers. The style of the case, including the claim number and title of the pleading, shall appear on the first page of the pleading.

(13) The board shall enter its decision affirming, modifying, or setting aside the order appealed from, or, in its discretion may remand the claim to the administrative law judge for further proceedings. Motions for reconsideration are not permitted.

(14) The decision of the board may be appealed to the Kentucky Court of Appeals as provided in Civil Rule 76.25.

(15) Except for motions that call for final disposition of an appeal, any board member designated by the chairman may dispose of any motion; and, any intermediate order may be issued on the signature of any board member.

Section 14. Medical Reports. (1) A party may introduce direct testimony from a physician through medical report, subject to the limitations of KRS 342.033, Section 5(1)(d) of this administrative regulation, and the scheduling order issued pursuant to Section 5(3) of this administrative regulation.

(2) Medical reports shall be submitted on Form 107 (injury) or Form 108 (occupational disease) as appropriate, except that an administrative law judge may permit the introduction of other reports.

(3) Medical reports shall be signed by the physician making the report, or be accompanied by an affidavit from the physician or the submitting attorney verifying the authenticity of the report.

(4) Medical reports shall include within the body of the report or as an attachment, a statement of qualifications of the person making

the report. If the qualifications of the physician who prepared the written medical report have been filed with the commissioner and the physician assigned a medical qualifications index number, reference may be made to the physician's index number in lieu of attaching qualifications.

(5) Any narrative in a medical report on a Form 107 or Form 108 shall be typewritten. Other portions of a report, including spirometric tracings, shall be clearly legible.

(6) Upon notice a party may file the testimony of two (2) physicians, either by deposition or medical report, which shall be admitted into evidence without further order if there has been no objection filed. Objection to the filing of a medical report shall be filed within ten (10) days of the notice of the motion for admission. Grounds for the objection shall be stated with particularity. The administrative law judge shall rule on the matter within fifteen (15) days of the filing of a motion or objection, whichever is last filed.

(7) If a medical report is admitted as direct testimony, any adverse party may depose the reporting physician as if on cross-examination at its expense.

Section 15. Extensions of Proof Time. (1) Extensions of time for producing evidence shall not be granted except upon showing of circumstances preventing the party from timely introducing proof. Motion for extension of time shall be filed no later than five (5) days before the deadline sought to be extended. The motion or supporting affidavits shall set forth:

- (a) The efforts to produce the evidence in a timely manner;
- (b) Facts which prevented timely production; and
- (c) The date of availability of the evidence, the probability of its production, and the materiality of the evidence.

(2) In the absence of compelling circumstances, only one (1) thirty (30) day extension shall be granted to each side for completion of discovery or proof by deposition.

(3) The granting of an extension of time for completion of discovery or proof shall enlarge the time to all plaintiffs if the extension is granted to a plaintiff and to all defendants should an extension be granted to a defendant, and shall extend the time of the adverse party automatically except when the extension is for rebuttal proof.

Section 16. Stipulation of Facts and Judicial Notice. (1) Refusal to stipulate facts which are not genuinely in issue may warrant imposition of sanctions as provided in Section 23 of this administrative regulation. Assertion that a party has not had sufficient opportunity to ascertain relevant facts shall not be considered "good cause" in the absence of due diligence.

(2) Upon cause shown, a party may be relieved of a stipulation provided that the motion for relief is filed at least ten (10) days prior to the date of the hearing, or as soon as practicable after discovery that the stipulation was erroneous. Upon granting relief from a stipulation, the administrative law judge may grant a continuance of the hearing and additional proof time.

Section 17. Coverage Insured Status. (1) The administrative law judge shall take judicial notice that compliance with KRS Chapter 342 is mandatory except for those employers exempted by KRS 342.650 and those employees rejecting the provisions of KRS Chapter 342 pursuant to KRS 342.395 and 342.400.

(2) Upon the filing of a claim, the commissioner shall ascertain whether the employer or any other person against whom a claim is filed and who is not exempted by KRS 342.650 has secured payment of compensation by obtaining insurance coverage or qualifying as a self insurer pursuant to KRS 342.340. Should an employer not have insurance coverage or qualify as a self insurer, the commissioner shall notify the administrative law judge and all parties by service of a certification of no coverage.

Section 18. Evidence—Rules Applicable. (1) The rules of evidence prescribed by the Supreme Court apply in all proceedings before the administrative law judges, except as varied by specific statute and this administrative regulation.

(2) A nonreating physician is permitted to use the history and the subjective symptomatology related to him by the patient in arriving at and formulating opinions.

Section 19. Discovery and Depositions—Wage Certification. (1) Discovery and the taking of depositions shall be in accordance with the provisions of Civil Rules 26 to 37, inclusive, except for Civil Rules 27, 33, and 36 which shall not apply to practice before the administrative law judges or the board.

(2) Depositions may be taken by telephone provided the reporter administering the oath to the witness and reporting the deposition is physically present with the witness at the time the deposition is given. Notice of telephonic deposition must relate the following information:

- (a) That the deposition is to be taken by telephone;
- (b) The address and telephone number from which the call will be placed to the witness;

(c) The address and telephone number of the place where the witness will answer the deposition call; and

(d) That all opposing parties may participate in the deposition either at the place where the deposition is being given, at the place the telephone call is placed to the witness, or by conference call. If a party elects to participate by conference call, that party must contribute proportionate costs of the conference call.

(3) The commissioner shall establish a medical qualifications index. An index number will be assigned to a physician upon the filing of the physician's qualifications. Any physician who has been assigned an index number may offer the assigned number in lieu of stating qualifications. Qualifications may be revised or updated by submitting revisions to the commissioner. Nothing in this rule shall preclude any party from inquiring further into the qualifications of a physician.

(4) At any time during the pendency of a claim the employee may serve a request upon the employer for verification of earnings during a period of fifty-two (52) weeks preceding a purported injury or at last exposure to occupational disease. Within thirty (30) days of service of a verification request, a representative of the employer shall complete and serve a completed Form AAW-1 on all other parties.

Section 20. Appearances. (1) Only attorneys duly licensed in Kentucky may practice before the administrative law judges or the board, except that any natural person who is a party to any proceeding may represent himself.

(2) Any party who elects to represent himself without the aid of counsel shall be held accountable in the same manner, and to the same degree, as an attorney.

Section 21. Withdrawal of Records. (1) No portion of any original record of the department shall be withdrawn except on order of the commissioner, an administrative law judge, or a member of the board.

(2) All physical exhibits, including x-rays, shall be disposed of sixty (60) days after the order resolving the claim has become final. A party filing an exhibit may make arrangements to claim an exhibit prior to that time. If an unclaimed exhibit has no money value, it shall be destroyed; if an unclaimed exhibit has a value of more than \$100, it shall be sold as surplus property; if an unclaimed exhibit has a value of less than \$100, it shall be donated to an appropriate state agency; and, if an unclaimed exhibit has historic value, it shall be sent to the state archives.

Section 22. Routine Records Admission. Any party may file in the record of a case any properly authenticated hospital, armed forces or Social Security records. However, opinions of physicians which may be expressed in such records shall not be considered by the

administrative law judge in violation of the rule relative to the number of physician's opinions set forth in KRS 342.033.

Section 23. Sanctions. Pursuant to KRS 342.310, an administrative law judge and the board may assess costs upon determination that proceedings have been brought, prosecuted or defended without reasonable grounds. Whenever justice will be served penalties shall be assessed against an offending attorney rather than against the client the attorney represents. Where a party is a governmental agency and attorney's fees are assessed, such fees shall include fees for the services of an attorney in public employment, measured by the reasonable cost of like services had a private attorney been retained. Failure of a party to timely file any pleading required by this administrative regulation may be treated by an administrative law judge or the board as prosecuting or defending without reasonable grounds.

Section 24. Payment of Compensation from Uninsured Employers' Fund. (1) Payment from the uninsured employers' fund of compensation shall be made only after the claimant, or any other party in interest, has filed in the circuit court of the county where the injury occurred an action pursuant to KRS 342.305 to enforce payment of the award against the uninsured employer, and there has been default in payment of the judgment by the employer.

(2) The claimant may by motion and affidavit demonstrating compliance with the requirement of subsection (1) of this section, request an administrative law judge to order payment from the uninsured employers' fund in accordance with KRS 342.760.

(3) This section shall not be construed to prohibit the voluntary payment of compensation by an employer, or any other person liable for payment thereof, who has failed to secure payment of compensation as provided for by KRS Chapter 342, the compromise and settlement of a claim, or the payment of benefits by the special fund.

(4) Compliance with subsection (1) of this section shall not be required and the compensation awarded shall be deemed uncollectible from an uninsured employer upon a showing that the employer has filed a petition under either Chapter 7 or Chapter 11 of the Federal Bankruptcy Code.

Section 25. Use of American Medical Association Guidelines in Coal Workers' Pneumoconiosis Cases. (1) Predicted normal values for FVC and FEV1 shall be determined in accordance with the latest edition of the American Medical Association Guideline. Age is to be determined as of the date of the evaluation. Height is to be measured while the claimant stands in his stocking feet and shall be rounded to the nearest centimeter.

(2) Formulas established by the Guidelines for predicted normal FVC and FEV1, shall be applied and predicted values computed. For example, the formula applicable to men for FVC and FEV1 as set forth in the Fourth Edition of the Guides are:

FVC in liters equals $0.06 \text{ times } H \text{ minus } 0.0214 \text{ times } A \text{ minus } 4.650$.

FEV1 in liters equals $0.0414 \text{ times } H \text{ minus } 0.0244 \text{ times } A \text{ minus } 2.10$.

H is height in centimeters.

A is age in years.

(3) The plaintiff's height, as measured in his stocking feet, shall be rounded out to the nearest centimeter. If the plaintiff's height is an odd number of centimeters, the next highest even height in centimeters shall be used.

Section 26. Forms. (1) Incorporation by reference. One (1) copy of Forms 101 (rev. 1/1/96), 102 (5/8/96), 103 (1/1/92), 104 (rev. 1/1/96), 105 (rev. 1/1/96), 106 (rev. 1/1/96), 107 I (rev. 5/8/96), 107 P (rev. 5/8/96), 108 (rev. 5/8/96), 109 (3/15/95), 110 I (rev. 7/1/95), 110 O (rev. 7/1/95), 110 R (rev. 7/1/95), and AWW 1 (rev. 5/8/95) is filed herewith and incorporated by reference.

(2) Obtaining forms.

(a) Forms are available to the public at main and branch offices of the Department of Workers' Claims:

1. Frankfort—Perimeter Park West—Building C, 1270 Louisville Road, Frankfort, Kentucky 40601;

2. Louisville—410 West Chestnut Street, Louisville, Kentucky 40202;

3. Paducah—220B North 8th Street, Paducah, Kentucky 42001; and

4. Pikeville—412 Second Street, Pikeville, Kentucky 41501.

(b) Office hours of each office are 9 a.m. to 4 p.m., local time, Monday through Friday, inclusive, for this purpose.]

WALTER W. TURNER, Commissioner

APPROVED BY AGENCY: April 15, 1997

FILED WITH LRC: April 15, 1997 at 11 a.m.

**LABOR CABINET
Department of Workers' Claims
(As Amended)**

803 KAR 25:200. Workers' compensation notice.

RELATES TO: KRS 342.610(6)

STATUTORY AUTHORITY: KRS 342.260, 342.610(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260 requires the commissioner to promulgate [such rules and] administrative regulations as are necessary to [carry on the work of the department, the administrative law judges, the Workers' Compensation Board and to] implement the provisions of KRS Chapter 342. KRS 342.610(6) requires the commissioner to promulgate an administrative regulation to establish the format and content of the notice required by that statute regarding the employer's workers compensation program. This administrative regulation establishes [KRS 342.610(6) requires every employer subject to KRS Chapter 342 to post a notice stating the name of its workers' compensation insurance carrier and policy number, setting forth the means to access medical care for injuries, employee's obligation to give notice of accidents, and such other matters concerning the employee's rights under this chapter as may be required by the commissioner so as to afford every employee the opportunity to become informed about the employer's workers' compensation program. KRS 342.610(6) further requires the commissioner to establish the format and content of the notice through administrative regulation. The function of this regulation is to establish] the format and content of the notice required by KRS 342.610(6).

Section 1. Content and Format. (1) The employer's notice to employees required by KRS 342.610(6) shall be conspicuously posted at the employer's principle office and each [such] other location [locations] where an employee customarily reports [employees customarily report] for payroll and personnel matters. The notice shall:

(a) Be in an identical format as the "Workers Compensation Notice"; and

(b) Contain the information required by subsection (2) of this section.

(2) The notice shall state:

(a) The employer's name and address;

(b) The workers' compensation carrier or third-party administrator's:

1. Name;

2. Policy number;

3. Effective dates;

4. Address;

5. Telephone number; and

6. Contact person;

(c)1. Whether the employer participates in a managed care plan for medical care; and

2. If he does participate, the name of the managed care plan, its representative, and the phone number of the representative; and

(d) The other information required by KRS 342.610(6) as stated on the Workers Compensation Notice. [The notice containing the information required by KRS 342.610(6) shall be in an identical format as the "Workers Compensation Notice" which is incorporated by reference.]

Section 2. Size. (1) The notice shall not be smaller than eight and one-half (8 1/2) by eleven (11) inches. The print shall not be smaller than twelve (12) point font.

Section 3. Incorporation [Incorporated] by Reference. (1) "Workers Compensation Notice" (January 1, 1997 Edition), Department of Workers' Claims, is incorporated by reference.

(2) [Pursuant to KRS 342.610(6) copies of the "Workers Compensation Notice" shall be provided to the employer by its insurance carrier.

(3) The material may [also] be inspected, copied, or obtained at the Department of Workers' Claims Monday through Friday, 9 a.m. to 4 p.m. at the following locations:

(a) Frankfort - Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601.

(b) Paducah - 220B North 8th St., Paducah, Kentucky 42001.

(c) Pikeville - 412 Second Street, Pikeville, Kentucky 41501.

WALTER W. TURNER, Commissioner

APPROVED BY AGENCY: April 15, 1997

FILED WITH LRC: April 15, 1997 at 11 a.m.

LABOR CABINET
Department of Workers' Claims
(As Amended)

803 KAR 25:210. Affidavit of exemption from KRS Chapter 342.

RELATES TO: KRS 342.610(5), 342.650(2)

STATUTORY AUTHORITY: KRS 342.260, 342.610(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260 requires the commissioner to promulgate [such rules and] administrative regulations [as are] necessary to [carry on the work of the department, the administrative law judges, the Workers' Compensation Board and to] implement the provisions of KRS Chapter 342. KRS 342.610(5) requires the commissioner to establish a form for a local building official to use to certify that a person or contractor who has applied for a building permit is exempt from KRS Chapter 342. This administrative regulation establishes [KRS 342.610(5) requires that prior to issuing any building permit pursuant to KRS 198B.060(10) every local building official shall require proof of workers' compensation coverage from the builder. Also pursuant to KRS 342.610(5), the commissioner is required to prescribe a form whereby a person who is exempt under the exemption contained in KRS 342.650(2), and any contractor otherwise exempt from KRS Chapter 342, shall certify the exemption to the local building official in lieu of providing workers' compensation coverage. The function of this administrative regulation, is to adopt] the exemption form.

Section 1. Exemption. (1) A person who is exempt from securing workers' compensation insurance under the exception contained in KRS 342.650(2), and a [any] contractor [otherwise] exempt from KRS Chapter 342 shall certify the exemption to the local building official by submitting an "Affidavit of Exemption from KRS Chapter 342

(Individual)" or an "Affidavit of Exemption from KRS Chapter 342 (Corporation or Partnership)", whichever is applicable, in lieu of providing proof of workers' compensation coverage.

(2) The local building official who [which] issues building permits shall immediately file the original affidavit with the Kentucky Department of Workers' Claims. A copy of the affidavit shall be maintained on file with the local office which issues the building permit.

Section 2. Incorporation [Material Incorporated] by Reference.

(1) The following material is incorporated by reference:

(a) "Affidavit of Exemption from KRS Chapter 342 (Individual)" (January 1, 1997 Edition), Department of Workers' Claims; and

(b) "Affidavit of Exemption from [the] KRS Chapter 342 (Corporation or Partnership)" (January 1, 1997 Edition), Department of Workers' Claims.

(2) The material may be inspected, copied, or obtained at the Department of Workers' Claims, Monday through Friday, 9 a.m. to 4 p.m. at the following locations:

(a) Frankfort - Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601.

(b) Paducah - 220B North 8th St., Paducah, Kentucky 42001.

(c) Pikeville - 412 Second Street, Pikeville, Kentucky 41501.

WALTER W. TURNER, Commissioner

APPROVED BY AGENCY: April 15, 1997

FILED WITH LRC: April 15, 1997 at 11 a.m.

LABOR CABINET
Department of Workers' Claims
(As Amended)

803 KAR 25:220. Guaranty funds.

RELATES TO: KRS 342.900 through 342.912 [HB 1 (1996 Extra.Sess.), see. 20, 21, 22, 23, 24, 25, 26]

STATUTORY AUTHORITY: KRS 342.260, 342.900 through 342.912 [KRS 342.260, HB 1 (1996 Extra.Sess.), see. 20, 21, 22, 23, 24, 25, 26]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260 requires the commissioner to promulgate [such rules and] administrative regulations [as are] necessary to [carry on the work of the department and to] implement the provisions of KRS Chapter 342. KRS 342.906(4) requires the commissioner to promulgate administrative regulations to establish a plan of operation for each guaranty fund created pursuant to KRS 342.906. This administrative regulation establishes the requirements for a guaranty fund written plan of operation and regulates the powers and duties of the guaranty funds. [House Bill 1, sections 20 to 26, requires the establishment of self-insurance guaranty funds for the continuation of workers' compensation benefits otherwise delayed or terminated due to the failure of a self-insured employer to meet its obligations under KRS Chapter 342. The function of this administrative regulation is to prescribe the requirements for a guaranty fund written "plan of operation" required by House Bill 1 and to regulate the powers and duties of the guaranty funds.]

Section 1. Definition. "Kentucky coal employers' self-insurance fund" means the self-insurance fund that consists of self-insured employers engaged in the severance or processing of coal, excluding the transportation or processing of coal by the end user.

Section 2. Plan of Operation. (1) Each guaranty fund shall submit to the commissioner a plan of operation and each amendment [any amendments] necessary to assure the fair, reasonable, and equitable administration of the fund. The plan of operation and amendments

shall become effective upon approval in writing by the commissioner. ~~[The Kentucky coal employers' self-insurance fund shall consist of self-insured employers engaged in the severance or processing of coal, excluding transportation or processing of coal by the end user.]~~

(2) ~~If [in the event]~~ a guaranty fund fails to submit an acceptable plan of operation by March 1, 1997, or ~~fails [failure at any time thereafter]~~ to submit a suitable amendment [amendments] to the plan, the commissioner may, after notice and hearing, adopt or amend a plan of operation for the guaranty fund. The plan adopted or amended by the commissioner shall continue in force until modified by the commissioner or superseded by a plan submitted by the guaranty fund and approved by the commissioner.

(3) A member [Members] of a guaranty fund shall comply with the plan of operation.

(4) The plan of operation shall establish:

(a) Procedures whereby all the powers and duties of the guaranty fund established by KRS Chapter 342 shall [will] be performed;

(b) Procedures to prorate a [any] security posted by the insolvent self-insurer and turned over to the guaranty fund, by allocating the [such] security to reserves for injuries incurred before and after March 1, 1997.

(c) Procedures for the collection of assessments, the sound investment, and disbursement of assets of the guaranty fund;

(d) The amount and method of reimbursing a member [members] of the board of directors for attendance at a board meeting or [meetings and] other reasonably necessary function [functions] of the guaranty fund;

(e) Procedures by which a claim shall [claims may] be filed with the guaranty fund and acceptable forms for proof of a claim [claims]. Notice of a claim [claims] against the insolvent self-insurer to a bankruptcy court or other court of competent jurisdiction shall be deemed notice to the guaranty fund;

(f) A regular place and time for a meeting [Regular places and times for meetings] of the board of directors;

(g) Procedures for a record [records] to be kept of a [all] financial transaction [transactions] of the guaranty fund, its agents, or [and] the board of directors;

(h) Procedures for the expeditious and informal resolution of a member grievance [member grievances];

(i) Additional provisions [as may be] necessary or proper for the execution of the powers and duties of the guaranty fund.

Section 3. [2-] Powers and Duties of the Guaranty Funds. (1) Each guaranty fund shall:

(a) Be the insurer required to pay the [all] workers' compensation benefits incurred during the period in which an insolvent self-insurer was a member of the guaranty fund, subject to the limitations established by KRS 342.908(4).

1. For a group self-insurer, membership in the Kentucky group self-insurance fund shall continue until coverage of every group member has been terminated by normal expiration or order of a court of competent jurisdiction.

2. For an individual self-insurer, membership in a guaranty fund shall continue until the employer:

a. Becomes an insolvent self-insurer, as defined in KRS 342.901(1); or

b. Secures coverage through an authorized carrier or self-insurance group;

(b) Have the rights, duties, and obligations of the insolvent self-insurer, except as otherwise provided by law; [provided in Section 24, Subsection (4) of House Bill 1; and, the guaranty fund shall have all the rights, duties and obligations of the insolvent self-insurer except as otherwise provided by law. For a group self-insurer, membership in the Kentucky group self-insurance fund shall continue until the coverage of every group member has been terminated by normal expiration or order of a court of competent jurisdiction. For individual self-insurers, membership in a guaranty fund continues until

~~such employer becomes an insolvent self-insurer, as defined in Section 24(1) of House Bill 1 or secures coverage through an authorized carrier or self-insurance group;]~~

(c) ~~[(b)]~~ Determine the outstanding liabilities of the insolvent self-insurer and establish actuarially responsible reserves for an [all] incurred claim. The [claims. Such] reserves shall ~~[then]~~ be applied pro rata to a claim [claims] incurred before and after March 1, 1997. The guaranty fund shall:

1. Not be responsible for a deficiency between the reserves so calculated and the total claims liability for a claim incurred prior to March 1, 1997; and

2. Pay a claim liability incurred on or after March 1, 1997; [is not responsible for any deficiency between the reserves so calculated and the total claims liability for claims incurred prior to March 1, 1997, but shall pay all claims liability incurred on or after that date.]

(d) ~~[(e)]~~ Establish a mechanism for return to the insolvent self-insured or the individual or entity posting the surety the [any] remaining surety if there is a surplus [in the event of a surplus].

(e) ~~[(d)]~~ Take possession of the books and records of the insolvent self-insurer necessary to fulfill the duties of the guaranty fund;

(f) ~~[(e)]~~ Investigate claims brought against the guaranty fund and adjust, compromise, settle and pay workers' compensation benefits which might otherwise be delayed or terminated due to the failure of an insolvent self-insurer to meet its obligations under KRS Chapter 342;

(g) ~~[(f)]~~ Notify a claimant [claimants] of the insolvent self-insurer of his rights through the guaranty fund;

(h) ~~[(g)]~~ Reimburse each servicing facility for an obligation [obligations] of the guaranty fund paid by the facility and for an expense [expenses] incurred by the facility while handling a claim [claims] on behalf of the guaranty fund; and

(i) ~~[(h)]~~ Notify the commissioner of [any] information indicating that a member may be insolvent or in a financial condition jeopardizing payment of claims.

(2) A guaranty fund may:

(a) Appear in, defend, and appeal an [any] action on a claim brought against the guaranty fund;

(b) Employ or retain [such] persons [as are] necessary to handle claims and perform other duties of the guaranty fund;

(c) Borrow funds necessary to effect the purposes of KRS Chapter 342 and this administrative regulation in accordance with the fund's [its] plan of operation;

(d) Sue or be sued;

(e) Negotiate and become a party to a contract [such contracts as are] necessary to carry out the purpose of KRS Chapter 342 and this administrative regulation; and

(f) Perform an act [other acts as are] necessary to effectuate the purpose of the guaranty fund.

WALTER W. TURNER, Commissioner

APPROVED BY AGENCY: April 15, 1997

FILED WITH LRC: April 15, 1997 at 11 a.m.

LABOR CABINET
Department of Workers' Claims
(As Amended)

803 KAR 25:230. Employee leasing.

RELATES TO: KRS 342.615 [HB 1 (1996 Extra. Sess.), sec. 36]
STATUTORY AUTHORITY: KRS 342.260, 342.615 [HB 1 (1996 Extra. Sess.)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260 requires the commissioner to promulgate [such rules and] administrative regulations [as are] necessary to [carry on the work of the]

department, administrative law judges, and the Workers' Compensation Board and to] implement the provisions of KRS Chapter 342. KRS 342.615 requires the commissioner to promulgate an administrative regulation to establish the manner of registration for an employee leasing company with the commissioner. This administrative regulation establishes the manner in which an employee leasing company shall register with the commissioner. [A new section of KRS Chapter 342 created by House Bill 1, Section 36, requires the commissioner to prescribe by administrative regulation the manner in which an employee leasing company shall register with the commissioner. The function of this administrative regulation is to ensure that all employee leasing companies operating in the Commonwealth are properly registered and that an employer who leases some or all of its workers properly obtains workers' compensation insurance coverage for all of its employees, including those leased from another entity, and that the premium paid is commensurate with exposure and anticipated claim experience.]

Section 1. Registration. (1) To be eligible to conduct business in Kentucky, a corporation, partnership, sole proprietorship, or other business entity which provides staff, personnel or an employee [employees] to be employed in this state to a business [other businesses] pursuant to a lease arrangement or agreement shall register with the commissioner in the manner established in this section of the administrative regulation. The registration shall:

(a) Be on form EL-1, Employee Leasing Company Registration Form;
(b) Be filed with the Division of Security and Compliance, Kentucky Department of Workers' Claims; and
(c) Include: [before becoming eligible to do business in the Commonwealth of Kentucky. The registration shall include:]

1. [(a)] The name of the lessor;
2. [(b)] The address of the principal place of business of the lessor and the address of each office it maintains within this state;
3. [(c)] The lessor's taxpayer or employer identification number;
4. [(d)] A list by jurisdiction of each [and every] name that the lessor has operated under in the preceding five (5) years including an alternative name, name of a predecessor [any alternative names and names of predecessors] and, if known, name of successor business entity [entities];
5. [(e)] A list of each [and every] person or entity who owns a five (5) percent or greater interest in the employee leasing business at the time of application and a list of each [and every] person or entity who formerly owned a five (5) percent or greater interest in the employee leasing company or a predecessor, successor, or alter ego [its predecessors, successors or alter egos] in the preceding five (5) years; [and]

6.a. If coverage has been cancelled or nonrenewed, [(f)] a list of each [and every] cancellation or nonrenewal of [of] workers' compensation insurance which has been issued to the lessor or a [any] predecessor in the preceding five (5) years. The list shall include the:

- (i) Policy or certificate number;
- (ii) Name of insurer or other provider of coverage;
- (iii) Rate of cancellation; and
- (iv) Reason for cancellation; or

b. If coverage has not been cancelled or nonrenewed, [the registration shall include] a sworn affidavit signed by the chief executive officer of the lessor attesting to that fact.

7. The name of the carrier of the current workers' compensation insurance, its policy number, policy period, and the name of the insured as it appears on the policy; and

8. A signed certification that states that the:

- a. Person signing is the duly authorized agent for the employee leasing company;
- b. Information contained in the registration form is true; and
- c. Applicant shall:

(i) Notify the commissioner of a change in the information provided in the registration; and

(ii) Provide information regarding workers' compensation coverage of a leased employee within ninety (90) days of approval on Form EL-2.

(2) A person [Persons] filing a registration statement [statements] pursuant to this section shall immediately notify the commissioner as to a change in the [any change in any] information provided pursuant to this section.

(3) The commissioner shall maintain a list of those lessors [of employees] who are satisfactorily registered with the commissioner.

(4) A lessor [Any lessor of employees] which was doing business in this state prior to effective date of this administrative regulation [enactment of this section] shall register with the commissioner within thirty (30) days of the effective date of this administrative regulation [section].

Section 2. Lessee Information Form. An employee leasing company shall file a Lessee Information Form, Form EL-2, for each Kentucky lessee for whom the company or a related entity provides the workers' compensation insurance coverage. The form shall:

(1) Be:

- (a) Filed within ninety (90) days of the initial registration of the employee leasing company;
- (b) Updated every six (6) months; and
- (c) Considered filed upon receipt of the form at the Division of Security and Compliance, Kentucky Department of Workers' Claims; and

(2) Include the:

- (a) Name of the employee leasing company and the lessee;
- (b) Address of the principal place of business of the lessor and the address of each office it maintains within this state;
- (c) Lessor's taxpayer or employer identification number;
- (d) Effective date of the workers' compensation coverage, the policy number, and the name of the issuer of the policy; and
- (e) Termination of coverage date.

Section 3. Advertising Prohibition. An [No] organization registered under KRS 342.615 shall not [this act shall directly or indirectly] reference the [such] registration orally or in an advertisement [any advertisements], marketing material, or publication [publications].

Section 4. [3.] Coverage. If [(1)] Although a lessee is primarily responsible for securing benefits under this chapter for leased employees by purchasing and maintaining a standard workers' compensation insurance policy, such lessee may fulfill that responsibility by contracting with the employee leasing company to purchase and maintain the required insurance policy.

(2) In the event the employee leasing company applies for [such] coverage under the provisions of KRS 342.615(4), it shall [also] maintain and furnish to the insurer sufficient information to permit the calculation of an experience modification factor for each lessee. The [Such] information shall include:

- (1) [(a)] The lessee's corporate name;
- (2) [(b)] The lessee's taxpayer or employer identification number;
- (3) [(c)] The lessee's risk identification number;
- (4) [(d)] A listing of the [all] leased employees associated with each lessee, the applicable classification code and payroll; [and]
- (5) [(e)] Claims information grouped by lessee; and
- (6) [any] Other information necessary to permit the calculation of an experience modification factor for each lessee.

Section 5. [4.] Experience Modification Factor Following Termination. (1) If [(In the event that)] the employee leasing arrangement with the lessee is terminated and the experience of the lessee is commin-

gled with that of another client [other clients] on the lessor's [lessor's] master policy, [then] the experience of the lessee shall be developed and reported by the insurer for use in development of an experience modification for the lessee.

(2) The employee leasing company shall notify the insurer thirty (30) days prior to the effective date of termination or immediately upon notification of cancellation by the lessee of an employee leasing arrangement with a lessee in order to allow sufficient time to calculate an experience modification factor for the lessee.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) EL-1, "Employee Leasing Company Registration Form" (April 1, 1997 edition), Department of Workers' Claims; and
- (b) EL-2, "Lessee Information Form" (April 1, 1997 edition), Department of Workers' Claims.

~~[Section 6. Incorporated by Reference. (1) EL-1, "Employee Leasing Company Registration Form" (April 1, 1997 Edition), Department of Workers' Claims, is incorporated by reference.~~

~~(2) EL-2, "Lessee Information Form" (April 1, 1997, Ed) Department of Workers' Claims is incorporated by reference.]~~

(2) [3] The material may be inspected, copied, or obtained at the Department of Workers' Claims, Monday through Friday, 9 a.m. to 4 p.m., at the following locations:

- (a) Frankfort - Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601;
- (b) Paducah - 220 B North 8th Street, Paducah, Kentucky 42001; and
- (c) Pikeville - 412 Second Street, Pikeville, Kentucky 41501.

WALTER W. TURNER, Commissioner
APPROVED BY AGENCY: April 15, 1997
FILED WITH LRC: April 15, 1997 at 11 a.m.

COMPILER'S NOTE: The following administrative regulation, 805 KAR 1:170, was amended by the promulgating agency and the Interim Joint Committee on Agriculture and Natural Resources on July 9, 1997.

PUBLIC PROTECTION AND REGULATION
Department of Mines and Minerals
Division of Oil and Gas
(As Amended)

805 KAR 1:170. Content of the operations and reclamation proposal; form on which the proposal is filed.

RELATES TO: KRS 353.520, 353.570, 353.590, 353.5901, 353.595, 353.597

STATUTORY AUTHORITY: KRS 353.540, 353.550, 353.5901, 353.670

NECESSITY, FUNCTION, AND CONFORMITY: KRS 353.5901(1) requires a well operator to submit to the Department of Mines and Minerals an operations and reclamation proposal applicable to all tracts on which there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed. This administrative regulation specifies the content of the operations and reclamation proposal, creates the form on which that proposal is to be filed, and provides for the form on which well transfers are indicated.

Section 1. Definitions. In addition to those set out in KRS 353.510, the following definitions shall apply to this administrative regulation:

(1) "Cross drain" means an open ditch, constructed across the roadway, to carry off road surface water and which is not intended to

replace culverts or prohibit vehicular traffic.

(2) "Diversion ditch" means a channel or ridge constructed across a slope for diverting surface runoff.

(3) "Filter strip" means a natural vegetative strip, left undisturbed, between the disturbed construction area and a water course, and which acts as a buffer area to catch sediment before it enters the water course.

(4) "Final reclamation" means the date on which the operator has completed his drilling operations at the well site, has plugged the well and has performed all obligations described in the operations and reclamation proposal.

~~[(5) "Surface owner" means the person in whose name title to the surface of the land subject to disturbance by drilling operations is recorded and who is assessed property taxes by the property valuation administrator of the county where the land is located.]~~

Section 2. (1) The operations and reclamation proposal shall be filed on Form ED-10[~~effective February 14, 1997~~], entitled "Plan to Prevent Erosion of and Sedimentation from a Well Site".

(2) In addition to the requirements set out in KRS 353.5901, the following information shall be set out on Form ED-10:

(a) The operator's and surface owner's names, addresses and telephone numbers, the county in which the well is proposed to be drilled, and the well number;

(b) A listing or description of fertilizers and soil amendments and seed or trees to be planted for each affected area requiring revegetation treatment and the types and amounts per acre of seed and trees to be planted; and

(c) A detailed drawing of the road, well location and proposed area of disturbance, which shall be in sufficient detail to allow ready identification of surface features and which shall satisfy the following requirements:

1. The surface owner's tract(s) shall be identified on the drawing, with the name of the surface owner if not listed on the legend, which drawing shall also indicate the acreage to be disturbed;

2. The drawing may be made over an enlarged section of the United States Geological Survey (USGS) 1:24000 topographic map and may be enlarged to approximately 1"=400' and be submitted on an eight and one-half (8 1/2) inch by fourteen (14) inches sheet, using the symbols set out on Form ED-10.

3. The drawing shall have a legend with the operator's and surface owner's names not listed on the map, the scale of the map, the well name and number, and the lease name.

(3) Signatory sections for the operator and surface owner shall be completed on Form ED-10 in the following manner:

(a) The name and title, if any, of the operator shall be indicated and his signature notarized, which signature shall be either that of an officer of the company or of some other person who holds a duly recorded power of attorney to execute documents, a copy of which power of attorney shall be filed with the division. If the prospective operator is an individual, the signatory shall be in the same name as the applicant's or a power of attorney to execute documents shall be submitted to the division if the signatory is someone other than the applicant;

(b) The surface owner's name shall be indicated and his signature notarized if he approves of the operations and reclamation proposal, together with any attachments submitted with it.

Section 3. Unsigned Reclamation Forms. If the owner of the surface of the severed minerals tract is unwilling or for some other reason has failed to execute Form ED-10, the operator shall file a written petition for mediation, together with the following, at the time the application for permit is filed, in accordance with KRS 353.5901:

(1) A copy of the certified mail receipt verifying that the operations and reclamation proposal, the statement required in KRS 353.5901(2)(b), and the plat were mailed to and received by the surface owner or, if not received, the original or a copy of the

unclaimed envelope. A copy of the operations and reclamation proposal and the attachments enclosed in the envelope mailed to the surface owner shall also be included.

(2) If the surface owner cannot be reached at his last known address of record and certified mail is returned as undeliverable or unknown, the operator shall publish a notice of intended activity, together with a request for information on the whereabouts of the surface owner, which publication shall be made two (2) consecutive times in a local newspaper in the county where the proposed well is located and once in a newspaper of general circulation [with state-wide distribution]. A copy of the notice of intended activity and request for surface owner information shall be included when the operator files his application for permit and shall include:

(a) The name and address of the operator;

(b) A brief description of the intended activity as set out in the operations and reclamation proposal;

(c) The ~~[date upon which the]~~ surface owner must respond to this notice within fifteen (15) [thirty (30)] days of the second [first] publication in the newspaper; and

(d) A statement of where interested persons may obtain additional information as to the operator's intended activity.

Section 4. Mediation of Dispute. (1) The surface owner may file with the division a request for mediation at any time after he has received from the operator the proposed operations and reclamation proposal, but only after the operator has filed his request for mediation and not later than the time set forth in the Notice of Request for Mediation provided by the department and mailed to the surface owner. The surface owner's request to participate in mediation shall include the mediation fee, in accordance with KRS 353.5901(2)(b).

(2) If the surface owner does not file his mediation fee within the time and in the manner required in the Notice of Request for Mediation, he shall be deemed to have failed to satisfy the statutory requirements applicable to mediation, the mediator shall file a report noting the [such] failure and recommend the acceptance of the operator's operations and reclamation proposal.

(3) ~~[Upon his receipt of a request for mediation, proof of notification or attempted notification and copies of the published notice of intended activity, if required by Section 3 of this administrative regulation, and the mediation fee required in KRS 353.5901(4), the mediator shall issue an order scheduling mediation and send it by certified mail to the well operator and all surface owners of areas to be disturbed by drilling who have not agreed to the operations and reclamation proposal.]~~

(4) The mediator shall [may] not settle damage claims or make any determinations regarding them in his report. However, information presented by the operator or surface owner as to ~~[such factors as]~~ costs incurred by either party as a result of the projected drilling and the loss of minerals or surface damage may be utilized by the mediator in recommending the placement of roads, pits or other construction and reclamation activities in a manner which has the least adverse surface impact.

(4) ~~[(5)]~~ If the operator withdraws his application for a permit to drill, deepen, or reopen a well after receipt by the division of the surface owner's mediation fee, that fee shall be refunded to the surface owner.

Section 5. (1) The construction of the well site, including roads, pits, tanks, lines and other areas disturbed, shall be performed by the operator in accordance with the operations and reclamation proposal. All cuts and fills shall have side slopes that are stable for the soil or fill material involved. The vertical grades shall be as low as reasonably practicable and compatible with topography.

(2) If the well produces and the site is kept open for long-term use for well servicing and for oil and gas removal, the operator shall:

(a) Maintain access roads in ~~[such]~~ a manner as to allow access by the operator without causing unreasonable settlement of the

roadbed or slides of the cut slopes, and provide that maintenance in accordance with the operations and reclamation proposal;

(b) Establish drainage to adequately accept runoff from access roads, the well site and other areas in a manner which prevents unreasonable interference with the surface owner's property, roads, farming operations, and buildings, and establish that drainage in accordance with the operations and reclamation proposal;

(c) Repair access roads, the well site area, and pits damaged by events ~~[such]~~ as floods, landslides, or excessive settlement of the embankment as soon as practicable after the damage has occurred; however, the operator shall not be responsible for damage attributable to another party's use of the access road not relating to the drilling, construction or operation of the well by the operator.

Section 6. (1) The operator shall provide written notice to the division when final reclamation and plugging have been completed.

(2) The bond required in KRS 353.590(5) shall not be released until a division inspector has made an inspection of the well site one (1) year after the date of the letter of notification from the operator of final reclamation and plugging and has filed a report to the director documenting that the following have occurred:

(a) All areas disturbed by the operator have been secured in a manner to prevent runoff, sedimentation, or settlement of the roadway, sliding of cut slopes or any fill material;

(b) A diverse and effective permanent vegetative cover has been established; and

(c) Any matters relating to settlement, inadequate vegetative cover or erosion have been corrected.

Section 7. Transfer of Wells having Existing Reclamation Plans.

(1) Prior to transferring a well located on a severed minerals tract and for which an approved operations and reclamation proposal is on file with the division, the operator shall:

(a) Provide the successor operator a copy of the approved reclamation forms and attachments on file with the division before signing Form ED-13, ~~[entitled]~~ "Well Transfer" ~~[, revised on April 16, 1990, is signed];~~

(b) Advise the successor operator of any reclamation responsibility the transferring operator had with regard to the well and related surface disturbance;

(c) Secure from the successor operator a letter indicating he has received from the transferring operator a copy of Form ED-10 and that he is willing to accept responsibility for the reclamation of the well site and other surface disturbances related to the operation of the well;

(d) Submit to the division the executed Form ED-13, applicable fee, and the letter of the successor operator's agreement to accept responsibility for reclamation in the manner set forth on Form ED-10; and

(e) Provide the surface owner of record with a copy of form ED-13 when he submits it to the division.

(2) The division shall not transfer the well until the requirements of this section are satisfied and shall advise the transferring and successor operators in writing when the well is transferred.

Section 8. If a well is to be drilled and completed on federal lands, the director shall accept a copy of a surface use reclamation agreement between the well operator and the federal agency in lieu of the operations and reclamation proposal. If the operator elects to submit this agreement, it shall be submitted at the time of filing the application for permit to drill a well.

Section 9. (1) If a field inspection indicates there is noncompliance with the approved operations and reclamation proposal or the requirements of Section 6 of this administrative regulation, a written notice of violation describing the noncompliance shall be given to the operator, together with a statement of the action required to correct

the noncompliance.

(2) The written notice of violation shall ~~may~~ allow the operator up to forty-five (45) days to correct the violation.

(3) An operator may file for an extension of time to correct a violation by submitting a letter to the director describing the need for that extension; if the director concludes that the request is reasonable and that an extension of time will not violate the requirements of this administrative regulation or applicable statutes, he may grant the request for extension of time.

(4) The operator's bond may be forfeited to the department's oil and gas well plugging fund, pursuant to KRS 353.590(7), if he fails to make required corrections.

(5) An operator who, after hearing, is determined by the department to be in noncompliance with any section of this administrative regulation, or who fails to abate any noncompliance of the approved operations and reclamation plan, is subject to the penalties described in KRS 353.991.

Section 10. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) Form ED-10, "Plan to Prevent Erosion of and Sedimentation from a Well Site", (February 14, 1997 Edition), Division of Oil and Gas; and

(b) Form ED-13, "Well Transfer", (April 16, 1990 Edition), Division of Oil and Gas. [Forms ED-10 and ED-13 are incorporated by reference.]

(2) These forms may be obtained from, examined, or copied at the Kentucky Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky 40512, Monday through Friday, 8 a.m. to 4:30 p.m.

LAURA M. DOUGLAS, Secretary

JOHN L. FRANKLIN, Commissioner

APPROVED BY AGENCY: May 14, 1997

FILED WITH LRC: May 15, 1997 at 11 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Public Service Commission
(As Amended)

807 KAR 5:063. Filing requirements and procedures for proposals to construct telecommunications antenna towers for cellular telecommunications services or personal communications services.

RELATES TO: KRS 100.324(5), 278.020, 278.650

STATUTORY AUTHORITY: KRS 278.020(1), 278.040(3), 278.650

NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3)

provides that the commission may promulgate ~~adopt, in keeping with KRS Chapter 13A,~~ reasonable administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.020(1) authorizes the commission to issue certificates of public convenience and necessity for utility construction. KRS 278.650 prescribes procedures to be followed for a proposal ~~proposals~~ to construct an antenna tower for cellular telecommunications services or personal communications services ~~towers~~ in a county containing a city of the first class which differ from those to be followed for a proposal ~~proposals~~ to construct an antenna tower for cellular telecommunications services or personal communications services ~~towers~~ outside a county containing a city of the first class. This administrative regulation prescribes filing requirements and procedures to be followed in applying for a certificate of public convenience and necessity to construct a telecommunications antenna tower for cellular telecommunications services or personal communications services.

Section 1. (1) To apply for a certificate of public convenience and

necessity, a utility proposing to construct a telecommunications antenna tower in a county which does not contain a city of the first class shall file with the Public Service Commission the following information:

(a) ~~((4))~~ All documents and information required by 807 KAR 5:001, Sections 8 and 9(2)(a), (b), (c), (d) and (g);

(b) A copy ~~[(2) Copies]~~ of the utility's applications to the Federal Aviation Administration and Kentucky Airport Zoning Commission and written authorizations from these agencies as soon as they are available;

(c) A copy ~~[(3) Copies]~~ of the utility's application to, and authorization from, the Federal Communications Commission, if applicable;

(d) ~~[(4)]~~ A geotechnical investigation report, signed and sealed by a professional engineer registered in Kentucky, that includes boring logs, foundation design recommendations, and a finding as to the proximity of the proposed site to flood hazard areas;

(e) ~~[(6)]~~ Clear directions to the proposed site;

(f) ~~[(6)]~~ The lease or sale agreement for the property on which the tower is proposed to be located;

(g) The identity ~~[(7) Identities]~~ and qualifications of each person ~~[persons]~~ directly responsible for the design and construction of the proposed tower;

(h) ~~[(8)]~~ A site development plan or survey, signed and sealed by a professional engineer registered in Kentucky, that shows the proposed location of the tower and all easements and existing structures on the property on which the tower will be located;

(i) ~~[(9)]~~ A vertical profile sketch of the tower, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas;

(j) ~~[(10)]~~ The tower and foundation design plans and a description of the standard according to which the tower was designed, signed and sealed by a professional engineer registered in Kentucky;

(k) ~~[(11)]~~ A map, drawn to a scale no less than one (1) inch equals 200 feet, that identifies every structure and every owner of real estate within 500 feet of the proposed tower;

(l) ~~[(12)]~~ A statement that every person who owns property ~~[or who resides]~~ within 500 feet of the proposed tower has been:

1. Notified by certified mail, return receipt requested, of the proposed construction;

2. ~~[has been]~~ Given the commission docket number under which the application will be processed; and

3. ~~[has been]~~ Informed of his right to request intervention;

(m) ~~[(13)]~~ A list of the property owners ~~[and residents]~~ who received the notice, together with copies of the certified letters sent to listed property owners ~~[and residents]~~;

(n) ~~[(14)]~~ A statement that the local planning unit or, if none, the county judge executive, has been:

1. Notified by certified mail, return receipt requested, of the proposed construction;

2. ~~[has been]~~ Given the commission docket number under which the application will be processed; and

3. ~~[has been]~~ Informed of its, or his, right to request intervention;

(o) ~~[(15)]~~ A copy of the notice sent to the local planning unit or, if none, to the county judge executive;

(p) ~~[(16)]~~ A statement that:

1. Two (2) written notices meeting the requirements of subsection (2) of this section have been posted, one (1) in a visible location on the proposed site and one (1) on the nearest public road; and

2. The ~~[that these]~~ notices shall remain ~~[be]~~ posted for at least two (2) weeks after the application has been filed; ~~[The notice posted on the site shall be at least two (2) inches by four (4) inches feet in size and shall state: "(Name of utility) proposes to construct a telecommunications ("tower" or "monopole") on this site. If you have questions, please contact (name and address of utility) or the Executive Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 616, Frankfort, Kentucky 40602. Please refer to (assigned docket number) in your correspondence." The notice posted on the~~

nearest public road shall be identical except that it shall state that the utility proposes construction "near this site." In both posted notices, the word "tower" or "monopole" shall be printed in letters at least four (4) inches high.

(q) [(17)] A statement that notice of the location of the proposed construction has been published in a newspaper of general circulation in the county in which the construction is proposed.

(r) [(18)] A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the zoning classification and existing land use for the specific property involved; and

(s) [(19)] A statement that the utility has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more [the proposed site is the most] suitable location reasonably available from which adequate service to the area can be provided.

(2)(a) The notices required by subsection (1)(p) of this section shall:

1. Be at least two (2) feet by four (4) feet in size; and
2. Except as provided by paragraph (b) of this subsection, state: "(Name of utility) proposes to construct a telecommunications ("tower" or "monopole") on this site. If you have questions, please contact (name and address of utility) or the Executive Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602. Please refer to (assigned docket number) in your correspondence."

(b) The notice posted on the nearest public road shall state: "(Name of utility) proposes to construct a telecommunications ("tower" or "monopole") near this site. If you have questions, please contact (name and address of utility) or the Executive Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602. Please refer to (assigned docket number) in your correspondence."

(c) In both posted notices, the word "tower" or "monopole" shall be printed in letters at least four (4) inches high.

Section 2. To apply for a certificate of public convenience and necessity, a utility proposing to construct a telecommunications antenna tower in a county containing a city of the first class shall file with the Public Service Commission the following information:

[(1)] All documents and information required by 807 KAR 5:001, Sections 8 and 9(2)(a), (b), (c), (d) and (g);

(1) [(2)] All documents and information required by Section 1(1)(a) through (m), (p), and (q) [(11)] [(2) through (11)] of this administrative regulation, except that in public notices required by Section 1(1)(l), (p), and (q), the utility shall include the following sentence: "The Public Service Commission in its review of the proposed construction shall not consider the character of the general area concerned or the likely effects of the installation on nearby land uses and values, as these matters are decided by the local planning unit"; [and]

(2) [(3)] A statement that the proposal has been submitted to the planning commission of the affected planning unit, the date upon which the proposal was submitted, and a copy [eepees] of all documents submitted to the planning commission; [and]

(3)(a) If the planning commission has made its decision regarding the proposal, a copy of the final decision of the planning commission; or

(b) If the planning commission has not made its decision and sixty (60) days have passed since the submission of the proposal, a statement that:

1. Sixty (60) days have passed since submission of the proposal to the planning commission; and

2. The planning commission has not taken final action in regard to the proposal;

(4) A statement that a copy of the statement submitted pursuant to subsection (3)(b) of this subsection has been sent to

the affected planning commission.

Section 3. [After the planning commission has made its decision regarding a proposal to construct a telecommunications antenna tower in a county containing a city of the first class, or after sixty (60) days have passed since submission of the proposal without final action having been taken by the planning commission, the utility shall file a copy of the final decision of the planning commission, or a statement that sixty (60) days have passed since its submission of the proposal to the planning commission and the planning commission has taken no action in regard to the proposal.

Section 4.] If the planning commission rejects a proposal to construct a telecommunications antenna tower in a county containing a city of the first class, and the utility wishes to request the commission to override the decision of the planning commission, the utility shall file a statement that there is no acceptable alternative site, together with supporting evidence that includes an affidavit [including, but not limited to, affidavits] or other documentation regarding attempts by the utility to secure an alternative site to provide service to the area. A copy of the statement with supporting documentation shall also be sent to the affected planning commission and to those persons who, according to the records of the affected planning commission, submitted testimony to the planning commission during its review of the proposed facility.

LINDA K. BREATHITT, Chairman

LAURA DOUGLAS, Secretary

APPROVED BY AGENCY: May 9, 1997

FILED WITH LRC: May 12, 1997 at 9 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Financial Institutions
Division of Law and Regulatory Compliance
(As Amended)

808 KAR 10:225. Administrative hearing procedures. [Procedural administrative regulation governing hearing and hearing-related procedures for matters before the Department of Financial Institutions.]

RELATES TO: KRS Chapter 13B, 292.330, 292.460, 292.470, 292.500(1), (3), (9)

STATUTORY AUTHORITY: KRS [Chapter 13B], 292.500(1), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.330(12), 292.390(3), and 292.410(2) authorize the commissioner to order the denial, suspension, or revocation of a registration or registration exemption of a broker-dealer, agent, or investment adviser for a violation of KRS Chapter 292. KRS 292.500(9) requires that an administrative hearing be conducted in accordance with KRS Chapters 13B and 292. KRS 292.500(3) authorizes the commissioner of the department to promulgate administrative regulations to implement the provisions of KRS Chapter 292. This administrative regulation establishes supplemental administrative hearing procedures for matters relating to a broker-dealer, agent, investment adviser, or security. [To enact a uniform set of hearing and hearing-related procedures consistent with KRS Chapter 13B and the needs of the Department of Financial Institutions for administrative proceedings before the department for actions brought pursuant to the department's oversight responsibility pursuant to KRS Chapter 292.310 et seq., Securities Act of Kentucky (hereinafter the "Securities Act") and any administrative regulations promulgated pursuant thereto.]

Section 1. **Definitions.** [The following terms shall have the following meanings as used in this administrative regulation.]

(1) "Administrative hearing" is defined by KRS 13B.010(2).

(2) "Commissioner" is defined by KRS 292.310(4).

(3) "Department" means any formal adjudicatory proceeding conducted by the Department of Financial Institutions on the record to adjudicate the legal rights, duties, privileges or immunities of a named person at which each party is given the opportunity, after proper notice, to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence.

(2) "Administrative action" means the formal administrative adjudicatory proceeding before the department from the filing of the pleading commencing the formal administrative proceedings until the time for all administrative appeals has run regarding the claims made in the commencing document.

(3) "The department", the "Securities Division", and the "division", means the Department of Financial Institutions [of the Commonwealth of Kentucky as referenced and empowered in KRS 292.500(1) and (3) of the Securities Act of Kentucky, KRS Chapter 292].

(4) ["Commissioner" means the Commissioner of the Department of Financial Institutions or any agent of the commissioner lawfully designated by the commissioner to act in his place.

(5) "Docket coordinator" means the employee of the department responsible for receiving and filing pleadings in administrative hearings. That individual does not necessarily hold the title of "docket coordinator".

(6) "Hearing officer" is defined by [in] KRS 13B.010(7). [The commissioner shall have the power to appoint a hearing officer from within or outside the department or to personally hear a matter before the department. Unless and until the commissioner makes such appointment, the commissioner or other member of the department staff designated by the commissioner shall fulfill the roles herein which are delegated to a hearing officer.]

(5) [(7) The "notice" means the notice of hearing required by KRS 13B.050.

(8) The "notice and complaint" means the document filed by the department to commence an administrative action, conforming to the requirements of KRS 13B.050 and this administrative regulation. It may take the form of an order in certain circumstances.

(9) "Party" is defined by [in] KRS 13B.010(3). [Where applicable, the department can be a party.]

(6) "Person" is defined by KRS 292.310(10).

[(10) "Person" means any individual, corporate entity, state governmental agency, or unit of local, state or federal government, and shall include any "party" as defined in this administrative regulation.

(11) "Petition for hearing" means any written request by a person other than the department for an administrative hearing before the department, including any document which by law or administrative regulation commences an adjudicatory administrative proceeding, that is filed in accordance with this administrative regulation.

(12) "Respondent" means any person requesting an administrative hearing to which this administrative regulation apply and it means any person against whom a claim is made in any petition filed with the department or an order entered by the commissioner of the department and it includes any person so designated in the caption of a petition or designated by order of a hearing officer.

(13) "Pleading" means the petition for hearing or notice of hearing and complaint, the answer, and any other responsive pleading ordered by a hearing officer or the commissioner or authorized by law or administrative regulation.

(14) "Record" is defined in KRS 13B.130.

(15) "Preponderance of evidence" means substantial evidence of sufficient weight to establish that a factual allegation is more likely true than not.

(16) "Responsive pleading" means the answer or any document required or authorized by law, administrative regulation, or order of a hearing officer to be filed in response to a pleading.

(17) "Substantial evidence" means evidence that taken alone or

in the light of all the evidence has sufficient probative value to induce conviction in the minds of reasonable persons.

(18) "Motion" means any pleading in the form of a motion which requests the hearing officer (or commissioner in appropriate circumstances) to take some action.

(19) "Show cause order" means an order entered by the commissioner commanding the respondent therein to appear at the Department of Financial Institutions to defend against certain allegations made against him and to persuade the commissioner from taking certain specified action against the respondent.

(20) "Summary order to cease and desist or to suspend exemptions from registration or to suspend registrations" also referred to as a summary cease and desist order, means an order entered by the commissioner to summarily command that a person or persons cease and desist in certain conduct specified therein, which conduct violates the Securities Act of Kentucky. Such order may also contain provisions to suspend registration exemptions otherwise available to some person or to suspend a registration in progress. The order is in the nature of a court injunction.

(21) "Securities Act of Kentucky" means KRS Chapter 292 of the Kentucky Revised Statutes. The Securities Act of Kentucky may also be referenced in this administrative regulation as the "Act", and any reference to the "Act", means the Securities Act of Kentucky and KRS Chapter 292.

(22) "Commissioner's designee" means any individual to which the commissioner delegates his authority under the Securities Act of Kentucky. Pursuant to this administrative regulation, the commissioner may delegate his powers under the Securities Act of Kentucky to a department employee of his choosing to the extent such delegation is permissible under the Securities Act of Kentucky.]

Section 2. Complaint and Answer. (1) The department attorney may file a written complaint against a person if:

(a) The attorney believes that the person is violating or has violated a provision of KRS Chapter 292; and

(b) The commissioner has not entered an order against the person based on the same conduct or allegation.

(2) The complaint shall:

(a) Describe the allegation made against the person;

(b) Request the commissioner to enter an appropriate order;

and

(c) Comply with the requirements for notice of an administrative hearing established by KRS 13B.050(c) through (h).

(3) A person shall respond to the complaint by filing a written answer with the department. If an answer is not filed in accordance with subsection (4) of this section, the department attorney shall seek a final order from the commissioner granting the relief requested in the complaint.

(4) An answer shall:

(a) Be filed within twenty (20) days of service of the complaint;

(b) Respond to each allegation in the complaint; and

(c) Include a request for an administrative hearing if the person:

1. Does not agree that there has been a violation of KRS Chapter 292; or

2. Believes that the requested action is not appropriate.

(5) If requested, an administrative hearing shall be held pursuant to the provisions of KRS Chapter 13B and this administrative regulation. The notice of hearing required by KRS 13B.050 shall be sent to the parties after the request for an administrative hearing has been received.

Section 3. Attorney Representation. (1) An attorney who represents a party shall send written notification to the department, the hearing officer, and each party stating:

(a) That the attorney is representing the party; and

(b) The name, address, telephone number, and, if applicable, the facsimile number of the attorney and the client.

(2) If there is a change in the information provided in the notice, the attorney shall send written notification of the change to the department, the hearing officer, and each party.

(3) Withdrawal. An attorney who wishes to withdraw shall submit written notification stating that:

(a) The attorney is withdrawing;

(b) The client has been informed of the withdrawal; and

(c) The withdrawal is authorized by the rules of the Kentucky Supreme Court.

Section 4. Hearing Officers. If a hearing officer is disqualified, the commissioner shall assign another hearing officer within ten (10) days of the disqualification.

Section 5. Filings. (1) Each document filed with the department for an administrative hearing shall include a certificate of service. The certificate of service shall:

(a) Certify that the document was served as required by KRS 13B.080(2);

(b) Identify the method of service; and

(c) Be signed by the individual who served the document.

(2) Pursuant to KRS 13B.080(2), a document sent by facsimile machine shall be considered served on a party on the date of the facsimile transmission if the:

(a) Document contains a statement that the:

1. Document was served by facsimile machine; and

2. Original of the document will be mailed to each party within five (5) business days of the date the facsimile was sent; and

(b) Party mails the original to the department within five (5) business days of the date the facsimile was sent.

Section 6. Motions. (1) A request for a hearing officer to take or refrain from taking an action shall be made by an oral or written motion.

(2) A motion shall state the basis for the motion, including a citation to or description of the legal authority in support of the requested action, if applicable.

(3) A party shall be given an opportunity to respond to a motion.

Section 7. Consolidation and Severance. (1) A hearing officer may consolidate cases assigned to his docket upon a finding by the hearing officer that:

(a) There are:

1. Common questions of law or fact; or

2. Identical issues or witnesses; and

(b) Consolidation is appropriate.

(2) A hearing officer may sever consolidated cases or claims in an administrative action upon a finding that the requirements for consolidation established in subsection (1) of this section are not met.

[Section 2. In any matters of construction, this administrative regulation shall be construed pursuant to this section of this administrative regulation.

(1) This administrative regulation shall be construed liberally and in conformity with reasonable administrative practice to achieve just, timely and inexpensive determinations of matters before the Department Of Financial Institutions of the Commonwealth of Kentucky. To the extent reasonably and rationally possible, this administrative regulation shall be construed in harmony with other administrative regulations applicable to administrative actions. In the event of a conflict with any other chapter of this administrative regulation, this administrative regulation shall be controlling, unless their application

would be manifestly unjust. This administrative regulation is not intended as a comprehensive set of hearing administrative regulations and shall in no way be construed to impede or constrict the power of a hearing officer to administer the law, or administrative regulations or to govern the conduct of his docket or the procedural course of a particular administrative action. The Kentucky Rules of Civil Procedure and the case law interpreting those rules as well as the Federal Rules of Civil Procedure and the case law interpreting those rules may be used as analogous authority to interpret this administrative regulation, where applicable. In the event of a conflict between the Kentucky Rules (and authority) and the Federal Rules (and authority), the Kentucky Rules and authority shall control.

(2) Nothing herein shall be construed as limiting the powers of the commissioner or commissioner's designee of the Department of Financial Institutions to enter summary orders to cease and desist or to suspend exemptions from registration or to suspend registrations pursuant to the Securities Act, or to seek injunctive relief pursuant to KRS 202.470 when circumstances exist such that would entitle the commissioner or commissioner's designee to seek relief pursuant to KRS 202.470. Nothing herein shall be construed as limiting similar such powers of the commissioner, or the commissioner's designee, as applicable, to the extent they exist or come into existence, in matters pertaining to KRS Chapter 287 (Banks and Trust Companies), KRS Chapter 288 (Consumer Loans), KRS Chapter 289 (Savings and Loan Associations), KRS Chapter 290 (Credit Unions), KRS Chapter 291 (Industrial Loan Corporations), KRS Chapter 294 (Mortgage Loan Companies), KRS Chapter 366 (Sale of Checks), KRS Chapter 368 (Check Cashers), and any administrative regulations promulgated pursuant thereto. Furthermore, such actions and proceedings shall be permissible during the pendency of a hearing conducted pursuant to this administrative regulation when circumstances justify such dual action.

(3) Nothing herein shall be construed as precluding or limiting in any way the power of the commissioner or the commissioner's designee, as applicable, to conduct an investigation pursuant to KRS 202.460 including but not limited to the power of the commissioner or any officer designated by the commissioner to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner or the commissioner's designee, as applicable, deems relevant or material to the inquiry. In the case of contumacy by, or refusal to obey a subpoena issued to any person, nothing in this administrative regulation shall limit the power of the commissioner to apply to, or preclude the commissioner from applying to, any court of competent jurisdiction, to issue to that person an order requiring him to appear before the commissioner, or the officer designated by the commissioner, to produce documentary evidence if so ordered or to give evidence (including but not limited to sworn testimony) touching the matter under investigation or in question. Furthermore, nothing herein shall preclude or limit the power of the commissioner or commissioner's designee to petition the court to seek contempt of court sanctions when applicable.

(4) It shall be the purpose and intent of this administrative regulation to ascertain the truth in all matters before the department when facts are in dispute and to do so in a fair and efficient manner with due regard for the interest of the investing public, as well as the persons and entities regulated by the department. In all decisions of the hearing officer concerning the interpretation and application of this administrative regulation, the interest of the investing public in maintaining integrity in the markets shall be given at least as much weight as the interest of the respondents before the department.

(5) This administrative regulation shall be applicable to all proceedings before the Department of Financial Institutions pursuant to the Securities Act, including, but not limited to, KRS Chapter 292.330 (Broker dealers, Agents, Investment Advisers and Securities) and any administrative regulations promulgated pursuant thereto. To

the extent certain provisions herein are not applicable to a particular subject area regulated by the department or can not be rationally or logically applied to that subject area, those provisions shall not be utilized.

Section 3. All persons appearing before the department shall have the right to counsel and attorney representation subject to the following terms:

(1) ~~Right to counsel.~~ Any person who appears before the department at any stage in a formal administrative hearing shall have the right, at his or her own expense, to be represented or advised by legal counsel. Nothing in this administrative regulation shall be construed to allow or permit representation of a person by a nonattorney.

(2) ~~Filing of notice of entry of appearance.~~ Any attorney representing a party before the department must file a written notice of entry of appearance in conformity with the notice provisions contained in this administrative regulation in each case before he may practice such case before the department. Filing of a notice of entry of appearance shall constitute agreement by the attorney to be bound by the provisions of this section. The notice of entry of appearance shall provide the appearing attorney and such attorney's client's current, complete and correct name, address, phone number and telefax number. The appearing attorney shall promptly notify the department of any change of address for himself or his client by filing a notice of change of address in the record.

(3) ~~Conditions of withdrawal.~~ An attorney of record in an administrative action before the department shall request permission to withdraw as counsel for a party in writing, with an affidavit from the moving attorney setting forth the grounds for withdrawal, certifying that the request to withdraw has been served upon the attorney's client, and an explanation why the withdrawal will not have a material adverse effect on the interests of the attorney's client.

(4) ~~Withdrawal before a hearing.~~ An attorney shall not withdraw from representing a person in an administrative action before the department without permission of the hearing officer before whom he is practicing. Within ten (10) days of an administrative hearing, an attorney of record shall not be permitted to withdraw from an administrative action absent a compelling reason shown upon a written motion filed in the record.

Section 4. ~~Informal Proceedings and Show Cause Proceedings.~~ Prefiling informal proceedings. Before an administrative action commences, the department may seek informal resolution of the dispute with a party. The department may seek any orders from the commissioner, or the commissioner's designee, as or the hearing officer as applicable which are helpful or reasonably necessary to facilitate informal resolution of any matter.

Section 5. The following terms apply to the assignment to hearing officer and the duties and authority of the hearing officer. The department shall designate a hearing officer for a formal administrative action in any manner consistent with KRS 13B.030 as soon as practicable after the commencement of the administrative action but not prior to the expiration of time limits for filing an answer to the department's complaint and for requesting a hearing.

(1) ~~Delegation of powers.~~ A request for or assignment of a hearing officer under KRS 13B.030(2) shall be a designation of a hearing officer under this administrative regulation and a delegation to the hearing officer under KRS 13B.030(1) of all powers conferred on a department relating to the conduct of the administrative action. The hearing officer shall have the authority to take any procedural action authorized by the Securities Act of Kentucky, KRS Chapter 292 and any administrative regulations promulgated pursuant thereto, KRS Chapter 13B, or this administrative regulation, including, but not limited to the authority to:

(a) Administer oaths and affirmations;

(b) Issue subpoenas for witnesses and production of documents or things;

(c) Regulate discovery;

(d) Rule on procedural requests;

(e) Hold prehearing conferences;

(f) Regulate the course of, and maintain order in the administrative hearing;

(g) Rule on evidentiary matters and admit in or exclude evidence from the record;

(h) Examine witnesses;

(i) Require the parties to submit legal memoranda, and proposed findings of fact and conclusions of law;

(j) Make proposed findings of fact, conclusions of law and recommended orders for the commissioner; and

(k) Take any action consistent with law to promote the orderly and prompt conduct of the administrative action.

(2) The department shall take no further action with respect to an administrative action, except as a party litigant, as long as the administrative action is assigned to a hearing officer. However, notwithstanding this provision, the department shall not be precluded from taking action to seek injunctive relief pursuant to KRS 202.470 or similar administrative action when circumstances such as those which would permit relief pursuant to KRS 202.470 are deemed by the commissioner to exist.

(3) The department shall not be restricted in choice of a hearing officer so long as it acts in compliance with KRS Chapter 13B. Such hearing officer may be selected from within the department and from any other administrative agencies of the Commonwealth of Kentucky provided that the hearing officer is willing to serve as such and provided that the employing agency is willing to permit the hearing officer to serve. Payment for such services shall be made at the actual cost to the lending agency (compensation of the hearing officer at his or her regular rate of pay plus actual cost of benefits) for such services prorated for the hearing officer's time actually spent providing the hearing officer services and shall be accomplished by agency interaccounting of such amounts due. Furthermore, this administrative regulation shall not be construed to require the department to designate a hearing officer from the division of administrative hearings in the Attorney General's Office under KRS 13B.030 or preclude the commissioner or the commissioner's designee, as applicable, from personally conducting a hearing.

(4) If at any time during an administrative action an assigned hearing officer's continued service would violate the standard set forth in KRS 13B.040(2)(a) or a Kentucky Canon of Judicial Ethics, that hearing officer shall disqualify himself and enter a written order withdrawing from an administrative action.

(5) At any point during an administrative action a party may move the hearing officer to recuse from an administrative action. Such action shall be by motion. The motion to recuse shall be in writing filed in the record and shall be supported by an affidavit setting forth specific facts which demonstrate one (1) or more of the grounds for recusal set forth in KRS 13B.040(2)(b).

(6) Within ten (10) days of recusal of a hearing officer, the commissioner or commissioner's designee shall request or assign another hearing officer by written order.

(7) Unless otherwise allowed by KRS 13B.100, there shall be no ex parte contact between a hearing officer assigned to an administrative action, or any person working under the hearing officer's supervision, and any person with a direct or indirect interest in the outcome to that administrative action concerning the merits of the administrative action assigned to the hearing officer.

(8) ~~Procedural matters.~~ This administrative regulation shall not prohibit ex parte contact with staff on purely procedural matters not at issue in the case. This section shall not prohibit communications with staff regarding the status of a case.

(9) ~~Notice to parties.~~ Upon receiving an ex parte contact prohibited by this section, the hearing officer shall take every action required

under KRS 13B.100, shall cause the parties to be notified of the contact, and shall inform the other parties to the action of their right to move for a recusal.

Section 6. The administrative action shall commence upon the filing of a petition for hearing or a notice of hearing and complaint. The notice of hearing and complaint shall be prepared and filed with the department by an attorney employed by the department. It shall be permissible for the commissioner or commissioner's designee to issue a summary cease and desist order, or any order entered pursuant to KRS Chapter 202, including KRS 202.330(12), or any administrative regulations promulgated pursuant thereto without beginning an administrative action. The commissioner or commissioner's designee may also independently commence an action by entering an appropriate order.

(1) The notice of hearing and complaint shall conform to KRS 13B.050 and shall, in addition thereto contain:

(a) The case caption, style and number of the administrative action which shall name all parties, known at the time of filing, to the administrative action;

(b) A short and plain statement of the facts upon which the department bases its action, in sufficient detail to give the parties reasonable opportunity to prepare evidence and argument. Such statement of facts upon which the department bases its action need only give parties the amount and type of notice contemplated by the Kentucky Rules of Civil Procedure for a civil complaint. In matters of violations of KRS 202.320 in connection with the offer and sale of a security, the department shall not be required to allege in detail, each and every instance of an unlawful offer of sale, so long as the respondent is reasonably apprised of the incidents on which the department is basing its action;

(c) A reference to the specific procedural statutes and administrative regulations under which the administrative action will be conducted;

(d) A statement giving the address, telephone number and telefax number of the office in which papers are to be filed;

(e) A warning that the department may take action adverse to the named party's interest if no answer is filed;

(f) A statement informing the parties that if the hearing date set forth in the notice is not convenient, the parties may move the hearing officer to reschedule the hearing and request a prehearing conference, or, if no hearing officer has been selected, such motion may be filed with the commissioner.

(2) Service of notice and complaint and petition. The department shall serve the notice, complaint and copy of the petition by certified mail or personal delivery as set forth in this administrative regulation. If served by mail, the department shall enter the date of mailing in the record and shall file the return receipt or returned envelope in the record when it is received by the department. The department may utilize one (1) document which contains the notice, complaint and petition.

(3) Notwithstanding this provision of this administrative regulation, when circumstances exist such that would entitle the commissioner or commissioner's designee to seek relief pursuant to KRS 202.470, the commissioner or commissioner's designee may enter a summary order to cease and desist or to suspend exemptions from registration or to suspend registrations pursuant to the Securities Act, or directly seek injunctive relief pursuant to KRS 202.470, or do both, and then conduct a hearing pursuant to this administrative regulation at some later time, provided however, such hearing shall be conducted as soon as practicable after the commissioner pursues some action pursuant hereto. In the event injunctive relief is afforded the commissioner or commissioner's designee and a hearing is conducted by the court which provides such relief, the department may adopt and rely upon the court's hearing to satisfy the hearing requirements of the Securities Act and this administrative regulation. When this provision of this administrative regulation is invoked, the department will provide

the information which would be provided in subsection (1)(a), (b), (c) and (d) of this section, had the normal procedures been followed but any order entered by the commissioner or commissioner's designee will take effect immediately and remain in effect permanently or until the respondents thereto convince the commissioner or commissioner's designee that the order should be rescinded or modified. In the event a summary order to cease and desist or to suspend exemptions from registration or to suspend registrations is entered and a hearing is requested, the commissioner or the commissioner's designee, as applicable, may appoint a hearing officer to preside over and conduct such hearing pursuant to this administrative regulation. This provision, when applicable, may be used in substitution of a complaint.

(4) The department shall retain the option of using a show cause order or a letter from a member of its staff to solicit a response to allegations that the Securities Act is being or has been violated. In the event such procedure is utilized, the department shall still retain the power to issue a summary order to cease and desist or to suspend exemptions from registration or to suspend registrations or begin a case by issuing a notice of hearing and complaint.

(5) Unless otherwise provided for in statute or administrative regulation, a person named as an opposing party in a pleading shall file an answer to the allegations in that pleading within twenty (20) days of the service of the pleading. The department may take action adverse to the named party's interest if no answer is filed.

(6) The answer shall specifically admit or deny in short and plain terms each and every allegation contained in the pleading and shall set forth all claims against other parties which arise out of the same transaction or occurrence that is the subject matter of the claims in the pleading and which fall within the department's jurisdiction. If the answering party is unable to admit or deny an allegation in the pleading, he shall so state in his answer and this shall have effect of a denial. The answer shall be in writing and shall include the named party's address and telephone number, or, if represented by an attorney, the name, address and telephone number of the attorney. Parties against whom claims are directed in an answer shall answer such claims within ten (10) days after service of the answer.

(7) The filing of a motion for more definite statement, motion for judgment on the pleadings, motion to dismiss or a motion for summary disposition shall not toll the time to file a responsive pleading.

(8) Any party filing frivolous or meritless motions or other pleadings or documents which would subject the individual to sanctions under Rule 11 of the Rules of Civil Procedure shall also be subject to sanctions to be imposed at the sound discretion of the hearing officer as appropriate under the circumstances to the extent such sanctions are authorized by law.

(9) Every defense to be pleaded. Every defense in law or fact to a claim for relief in any pleading shall be asserted in the responsive pleading thereto, if one (1) is required.

(10) Any matter constituting an avoidance or affirmative defense in an administrative action shall be set forth in a responsive pleading. Failure to plead an affirmative defense in a responsive pleading may constitute a waiver of that defense.

(11) The following defenses may at the option of the pleading party be asserted by motion before making a responsive pleading:

- (a) Lack of jurisdiction over the person;
- (b) Lack of jurisdiction over the subject matter;
- (c) Improper venue;
- (d) Insufficiency of process;
- (e) Insufficiency of service of process;
- (f) Failure to state a claim upon which relief can be granted; and
- (g) Failure to join a required party. Failure to plead any of the defenses listed in this subsection in a responsive pleading shall not constitute a waiver of that defense. Notwithstanding this provision, the time for filing an answer is not tolled by filing such motion and if the time for filing the answer expires, the department may take action adverse to the named party's interest.

(12) A party may amend his pleading once as a matter of course at any time before a responsive pleading is served, or if the pleading is one (1) to which no responsive pleading is permitted, he may so amend it at any time within five (5) days after it is served. Otherwise, a party may amend his pleading only by leave of the hearing officer or by written consent of the adverse party filed in the record. Leave to amend shall be freely given to achieve just, timely and inexpensive determinations of matters before the department. It shall be permissible in the discretion of the hearing officer to amend a pleading if necessary after the conclusion of a hearing to conform to the evidence presented so long as the party opposing such amendment has a reasonable and fair opportunity to confront and cross-examine all evidence.

(13) A party shall file a response to an amended pleading within the time remaining for response to the original pleading or within ten (10) days after service of the amended pleading, whichever period may be longer, unless the hearing officer orders otherwise.

(14) Whenever the claim or defense asserted in an amended pleading arises out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment shall relate back to the date of filing of the original pleading.

(15) The hearing officer may upon his own initiative or upon motion of a party permit a party to file a supplemental pleading which sets forth transactions, occurrences or events which have happened since the date of a prior pleading. The hearing officer shall allow such supplemental filings upon reasonable notice and upon such terms as are just, and shall grant the adverse party leave to file a responsive pleading to the supplemented pleading.

Section 7. Service shall be completed pursuant to the following terms:

(1) Unless the hearing officer otherwise orders, every order, every pleading subsequent to the document commencing the administrative action, every paper relating to discovery required to be served upon a party and every written motion, summons, notice, appearance, demand, and similar paper filed in the record shall be served upon each party to an administrative action. If a party is represented by legal counsel, service upon the attorney shall suffice.

(2) Service may be made by personal delivery of or by mailing a copy of the paper to the party served.

(a) Service may be accomplished by certified mail by placing a copy of the paper to be served in an envelope, addressing the envelope to the person to be served at his last known address, affixing adequate postage to and mailing the sealed envelope by certified mail, return receipt requested. Service by certified mail under this section is complete upon mailing. The department shall immediately upon receipt mark all return receipts and returned mail served under this paragraph with the date the department receives the receipt or the mail. The United States Mail return receipt or returned mail shall be proof of the date of acceptance or refusal to claim a paper served by mail. The certificate of service required by subsection (5) of this section for papers to be filed in the record shall be evidence of the date of service. The proper address for the purposes of service by mail shall be the last known address of the person to be served. If the person to be served is a licensee or permittee of the department, then the proper address for service of process shall include that person's last address of record in the department's files.

(b) Service may be accomplished by regular mail in the same manner as for certified mail. Service by regular mail is effective upon mailing. The certificate of service required by subsection (5) of this section for papers to be filed in the record shall be evidence of the date of service.

(c) Papers may be served by personal delivery by any person over eighteen (18) years of age authorized by law or administrative regulation to deliver them in person. Delivery within this administrative regulation means handing it to the party; or leaving it at the party's business address with the person in charge thereof; or, leaving it at

the party's residence with a person eighteen (18) years of age or older residing therein. The person serving the papers in person shall fill out a certificate of service indicating the date and manner of service and whether service was offered and accepted or refused. The serving person shall return the endorsed certificate of service to the department, which shall immediately file it in the record.

(d) Service may be made upon any person permitted by law to receive service, including, but not limited to the following:

1. Service shall be made upon an individual within this Commonwealth, other than an unmarried infant or person of unsound mind, by delivering a copy of the administrative summons and petition to such person or, if acceptance is refused, by offering personal delivery to such person, or by delivering a copy of the administrative summons and petition to an agent authorized by appointment or by law to receive service of process for such individuals.

2. Service shall be made upon an unmarried infant or a person of unsound mind by serving the person's resident guardian or committee if there is one (1) known to the initiating party or, if none, by serving either the person's father or mother within this state or, if none, by serving the person within this state having control of such individual. If there are no such persons enumerated above, the department may apply to the appropriate court to appoint a practicing attorney as guardian ad litem who shall be served.

3. Service shall be made upon a partnership or unincorporated association subject to administrative action under a common name by serving a partner or managing agent of the partnership or an officer or managing agent of the association, or an agent authorized by appointment or by law to receive service on its behalf.

4. Service shall be made upon a corporation by serving an officer or managing agent thereof, or any other agent authorized by appointment or by law to receive service on its behalf.

5. Service shall be made upon the department by serving the commissioner or general counsel for the department or the staff attorney of record.

6. Service shall be made upon a county by serving the county judge or, if the county judge is absent from the county, the county attorney. Service shall be made upon a city by serving the chief executive officer thereof or an official attorney thereof. Service on any public board or other collegial body, shall be made by serving a member thereof.

7. Service may be made upon an individual out of this state, other than an unmarried infant, a person of unsound mind or a prisoner, by certified mail in the manner prescribed in subsection (4)(g) of this section, by personal delivery in the manner prescribed in subsection (4)(b) of this section, or by other methods allowed by law. Proof of service may be made either by the return receipt mentioned in subsection (4)(a) of this section or by certificate of service, mentioned in subsection (4)(b) of this section.

8. Service may be made upon a nonresident individual who transacts business through an office or agency in this state, or a resident individual who transacts business through an office or agency in any action growing out of or connected with the business of such office or agency, by serving the person in charge thereof.

9. The methods of service of process specified by this administrative regulation shall be supplemental to and an alternative to any other method of service specified by other applicable statutes or administrative regulations.

10. Notwithstanding any provisions herein, if a party actually obtains or receives a copy of any document required to be served, and such possession is admitted or established by an opposing party, the party shall be deemed served and there shall be no relief afforded to the party deemed served for otherwise defective service and no argument or motion for such relief shall be heard or granted.

(3) Whenever under this administrative regulation service is required or permitted to be made upon a party represented by an attorney of record in the administrative action, service may be made upon the attorney in the same manner as upon the represented party.

(4) The department shall serve and orders, notices and a copy of the original petition in accordance with this administrative regulation. In all other cases, unless the hearing officer orders otherwise, the person filing papers shall be responsible for serving those papers.

(5) Whenever any pleading or other paper is served under this administrative regulation, the serving party shall file proof of the date and manner the filed paper was served upon the other parties to the administrative action. Proof of service shall be by a certificate signed by the person who served the paper, or by any other proof satisfactory to the hearing officer. The certificate of service shall identify by name the persons served.

Section 8. Filing of papers shall be done pursuant to the following terms:

(1) All papers after the petition required to be served upon a party shall be filed with the department concurrently.

(2) Pleadings and other papers shall be filed with the department when they are received and endorsed by the department. The department shall endorse the date of receipt on every paper filed in an action immediately upon receipt.

(3) Papers may be filed with the department by telefacsimile machine at the telefacsimile telephone number listed for the department on the summons or order. Parties filing by telefacsimile machine shall include a certificate that the paper is being filed by fax and the original paper is being filed by mail and shall immediately after faxing such a paper mail the original paper to the department. The filing date of a paper sent by facsimile shall be the date the department receives the original, unless the original is received within five (5) business days of the facsimile, in which case the filing date shall be the date the department received the facsimile.

(4) All papers filed in an administrative action must be signed by the filing person. In addition, all such filings shall also contain the address and telephone number of the individual whose signature appears on such filed papers. The signature of the filing person or his authorized representative constitutes a certificate that the signing person has read the paper and that to the best of his knowledge, information and belief formed after reasonable inquiry, it is not interposed for any improper purpose. If a paper is signed in violation of this subsection, the hearing officer may strike the paper from the record, deem the party to have failed to file the paper and take any action allowed as a consequence of such failure, strike all or part of any pleading, claim or defense asserted in the filing, or bar an attorney violating this subsection from future participation in that administrative action.

Section 9. Postfiling informal proceedings shall be permitted subject to the following terms:

(1) Partial settlement. If the parties settle some but not all of the issues in the case or reach agreement to limit discovery or resolve any other matter, the parties shall, file with the hearing officer or commissioner as applicable, a joint statement enumerating the issues that have been resolved and the issues that remain for formal administrative hearing.

(2) Nothing herein shall be construed as prohibiting the department or its agents from conducting private settlement negotiations with a respondent or counsel for the respondent outside the presence of other parties and in a nonpublic venue. However, should such negotiations result in a settlement agreement being reached, those provisions shall be applied prior to the department's final action on the negotiated settlement.

Section 10. The following notices are to be filed when applicable:

(1) When any claim is settled, the settling parties shall, within thirty (30) days of reaching the settlement, notify the hearing officer of the settlement by filing a notice of settlement. The notice of settlement shall explain which claims are settled and shall detail the present status of the administrative action, identify all relevant

scheduled hearings and conferences by date, and specifically request that any scheduled hearings or conferences be postponed and that the matter be set for a prehearing conference. Oral notice by one (1) party of settlement shall not be accepted as evidence of settlement, cause to reschedule an administrative hearing or basis for a postponement or continuance.

(2) All agreed orders entered into which resolve any claim or part of a claim in an administrative action shall be in the form of a recommended order to the commissioner, with a signature line for the hearing officer, and shall be tendered to the hearing officer for review and approval before being filed and presented to the commissioner. In the event an agreed order is created before a hearing officer is selected for a matter, the agreed order shall be tendered directly to the commissioner.

(3) Any party appealing a final order of the department to a court of law of the Commonwealth, or filing a related claim in a court of law of the Commonwealth, or the United States District Court or United States Bankruptcy Court shall, within thirty (30) days of filing such a claim, file with the department a notice of appeal, a notice of filing or a notice of bankruptcy. The party filing such notice shall attach thereto the complaint or petition affecting the administrative action before the department.

(4) Administrative hearings shall be conducted at a site selected by the department, or, if no site is selected by the department, at a site designated by the hearing officer. In determining venue, the hearing officer shall consider the requirements of law, the convenience of the parties, the witnesses and the evidence.

Section 11. The following terms apply to calculation of time:

(1) In computing any period of time prescribed or allowed by order of the hearing officer or by administrative regulation, the day of the act, event or default after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday. Unless otherwise directed by the hearing officer, when the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded from the computation. In the event the last day of the period so computed is a day on which the government of the Commonwealth of Kentucky is fully or partially closed due to weather or natural disaster, the period shall run until the next day which is not such a day of closing, a Saturday, a Sunday or a legal holiday. Legal holidays shall be defined as state holidays designated as such by the Commonwealth of Kentucky.

(2) When by administrative regulation or by order of the hearing officer an act is required or allowed to be done by a specified time, the hearing officer may, before the specified time expires order the period enlarged or, may upon motion made after the specified period expires, permit the act to be done where the failure to act was the result of excusable neglect. The hearing officer may not enlarge or reduce a time frame established by statute.

(3) Whenever a party has the right or is required to do some act or take some proceeding within a period prescribed by order of the hearing officer or by administrative regulation after the service of a notice or other paper upon the party by mail, three (3) days shall be added to the prescribed period. This provision shall not apply to the service of administrative summons, notices and petitions by mail.

Section 12. The following terms shall govern waivers:

(1) Any person granted a procedural right under this administrative regulation or KRS Chapter 13B may voluntarily, knowingly and expressly waive such a right on the record orally or in a signed writing.

(2) A failure by any party to object in a timely manner, in writing, to a violation of a procedural right granted herein shall be deemed a

waiver of such right. An objection shall be timely when raised contemporaneously with the event which precipitates the objection or when raised at the time the party, through reasonable diligence, should have discovered the violation of the procedural right.

Section 13. Prehearing conferences and orders shall be governed by the following terms:

(1) A hearing officer, upon the motion of any party, or upon the hearing officer's own initiative, may hold a prehearing conference in any administrative action assigned to him to consider any matter set forth in KRS 13B.070(1).

(2) Prehearing conferences may be held by telephone upon agreement of all persons concerned. The persons to be involved in the telephonic conference shall place the conference call to the hearing officer.

(3) Any prehearing conference in which the hearing officer will hear or rule on motions, objections, or hear argument on or make intermediate rulings shall be recorded and made part of the record.

(4) A hearing officer may order a settlement conference to facilitate settlement discussions. The hearing officer assigned to the administrative action shall not be present during the course of a settlement conference in that administrative action. No statements or admissions made at the settlement conference for the purpose of settlement negotiations shall be admitted in evidence at a formal administrative hearing nor be used by the hearing officer in making any report and recommendation to the department head. To facilitate the settlement conference, the hearing officer may order:

(a) That expedited discovery be had before the settlement conference;

(b) That the parties or their representatives appear at the settlement conference with settlement authority;

(c) That any party produce witnesses, documents or other discovery at the settlement conference.

(5) The hearing officer shall file a prehearing conference order in compliance with KRS 13B.070(2) after each prehearing conference which sets forth the date, place and attendees of the prehearing conference and sets out any rulings made by the hearing officer at the prehearing conference.

Section 14. Discovery shall only be granted as follows:

(1) No fewer than five (5) days before the hearing and within twenty (20) days of service of the notice required under this administrative regulation, the parties shall produce, file and serve on every other party the following information:

(a) The name, address, and telephone number of each witness whom the disclosing party expects to call at the hearing, with a designation of the subject matter of which each witness might be called to testify.

(b) The name and address of each person whom the party believes may have knowledge or information relevant to the events, transactions, or occurrences that gave rise to the proceeding and the nature of the knowledge or information each such individual is believed to possess.

(c) The name and address of each person who has given statements, whether written or recorded, signed or unsigned, regarding matters relevant to the petition, and the custodian of the copies of these statements.

(d) The name and address of each person whom the disclosing party expects to call as an expert witness at the hearing, the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, a summary of the grounds for each opinion, the qualifications of the witness and the name and address of the custodian of copies of any reports prepared by the expert in connection with the action.

(e) The existence, location, custodian, and general description of any tangible evidence or relevant documents that the disclosing party plans to use at the hearing.

(f) A list of the documents or, in the case of voluminous documentary information, a list of the categories of documents, known by a party to exist, whether or not in the party's possession, custody or control and which that party believes may be relevant to the subject matter of the proceeding and those which appear reasonably calculated to lead to the discovery of admissible evidence, and the date(s) when these documents will be or have been made available for inspection and copying. Unless good cause is shown for not doing so, a copy of each document listed shall be served with the list. If the listing party does not produce a listed document, the party shall indicate the name and address of the custodian of the document not produced. Whenever possible, a party who produces documents for inspection shall produce them in the same form they are kept in the ordinary course of business.

(g) The department shall separately identify and produce for examination and copying all exculpatory information in the department's possession, or if unable to produce that evidence, the department shall give the location, custodian and general description of the exculpatory evidence.

(h) In lieu of paragraphs (b), (c), (e) and (f) of this subsection, the department shall be permitted to make all of its files, excepting privileged materials such as attorney work product and the analysis and notes of investigators, pertaining to the matter at hand available for inspection and copying by any of the parties desiring same. Such inspection shall be at the time and expense of the party desiring same and shall be done at a reasonable time and manner so as not to disrupt the operations of the department and it shall be done solely at the discretion of the department.

(2) In addition to the discovery provided for in subsection (1) of this section, the hearing officer on motion may allow any party to use any form of discovery allowed in the Kentucky Rules of Civil Procedure, when appropriate under the circumstances and upon such terms as required by law or order of the hearing officer.

(3) All matters produced under this section shall include information in the possession, custody and control of the parties as well as that which can be ascertained, learned or acquired by reasonable inquiry and investigation.

(4) The parties shall be under a continuing duty to produce information under this section, and each party shall make additional or amended disclosures whenever new or different information is discovered or revealed. Such additional or amended disclosures shall be made seasonably but in no event later than ten (10) days before the hearing, except by order of the hearing officer. Additional and amended disclosures shall conform to the requirements of this section.

(5) The party responsible for service of discovery documents shall retain and be the custodian of the original documents. The custodian shall provide access to the documents in his custody to all parties of record during the pendency of the administrative action before the department.

(6) Unless a hearing officer orders otherwise, transcripts of depositions, interrogatories and responses thereto, requests for production, inspection or for admission and responses thereto shall not be filed in the record. All other discovery required to be served under this administrative regulation, under law or by order of the hearing officer shall be filed in the record.

(7) Upon the failure of any party to produce information under this section, another party may move for an order compelling production. Prior to moving to compel or for a protective order, opposing parties or counsel shall confer regarding the discovery dispute, and shall make a good faith effort to resolve that dispute. When making a motion to compel or for a protective order, the moving party shall attach to the motion a separate certification that the individuals concerned have conferred and that they have been unable to resolve the dispute. The certification shall briefly detail the attempts of the individuals to resolve the dispute. The hearing officer may deny any motion to compel which does not contain the certification required by

this section, or upon evidence that the parties or counsel did not confer as required by this section.

(8) If a party fails to comply with the prehearing discovery required by this section or an order of the hearing officer under this section, the hearing officer may impose any sanction allowed by law, including but not limited to an order excluding evidence from the record, limiting the use of evidence, staying the administrative action until the party complies, deeming facts to be established for the purposes of the administrative action, ordering that the party failing to comply not be allowed to support or oppose designated claims or defenses, not be allowed to introduce designated matters in evidence, or not be allowed to examine witnesses to prove facts other than those identified in the prehearing disclosure by the party. In addition, the hearing officer may petition the commissioner to enter an order pursuant to KRS 202.460 to obtain the discovery information sought and further request that the commissioner seek an order from a court of law to require the production of such discovery information and, if necessary, pursue an action to obtain enforcement of the court's order through contempt proceedings. The commissioner shall at all times maintain his powers pursuant to KRS 202.460.

Section 15. Consolidation and severance may be done pursuant to the following terms:

(1) A hearing officer, on motion of a party or on his own, may consolidate any cases assigned to his docket upon a finding by the hearing officer that the cases concern common questions of law or fact, or have an identity of issues or witnesses, and that consolidation is appropriate according to reasonable administrative practice.

(2) A hearing officer in his own discretion or on motion of a party, may sever consolidated cases or claims in an administrative action for a separate administrative hearing.

Section 16. Subpoenas may be issued as follows:

(1) Upon motion of a party, the hearing officer may issue subpoenas requiring the attendance and testimony of witnesses and the production of any tangible items in the possession or under the control of witnesses.

(2) A motion for issuance of a subpoena shall be in writing, filed with the department at least five (5) days before the hearing. The motion shall set forth the need for the subpoena and shall specify the name and address of the person to be subpoenaed, and the name, address and phone number of the party requesting a subpoena. If the subpoena requests the production of tangible items, the motion shall describe those items with particularity. Attached to the motion, the party requesting the subpoena shall attach completed subpoenas on forms provided by the department.

(3) Any person subject to a subpoena may, before the time for compliance set forth in the subpoena, move the hearing officer to quash the subpoena on the grounds that it was not lawfully issued, is unreasonably broad in scope, or requires production of evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds or violates an evidentiary privilege recognized in the courts of this Commonwealth. The hearing officer shall rule expeditiously on any motion to quash.

(4) Anytime a person fails to honor a valid subpoena, the hearing officer may petition the commissioner or the commissioner's designee, as applicable, to issue the subpoena pursuant to KRS 202.460, and then further request that the commissioner seek an order from a court of law to enforce the subpoena, and, if necessary, pursue an action to obtain enforcement of the resulting court's order through contempt proceedings. The commissioner shall at all times maintain his powers pursuant to KRS 202.460.

(5) The commissioner or commissioner's designee can issue a subpoena pursuant to KRS 202.460 on his own motion at any time regardless of whether a hearing officer has been selected.

Section 17. Motion practice shall be conducted as follows:

(1) All requests for relief from a hearing officer shall be in the form of a motion. Unless otherwise provided by law or administrative regulation, a person may move at any time during an administrative action, orally or in writing for any relief within the authority and jurisdiction of the hearing officer.

(2) All motions filed with the department going to the merits of an administrative action shall state the grounds and supporting authority for the motion and the precise relief requested. Any party properly served with a motion may, within fifteen (15) days of the date of service of a motion, file a response stating grounds and supporting authorities for opposing the motion. No motion or response longer than twenty-five (25) pages in length (excluding exhibits and attachments) shall be filed without prior leave of a hearing officer.

(3) All written motions filed under this section shall be on eight and one-half (8 1/2) by eleven (11) inches paper stock, shall be signed by the filing person and shall include the name, address, telephone number and telefax number of each person filing the motion. Motions shall not be side bound or top bound with a binding that interferes with the inclusion of the papers or pleadings in the department files, unless permitted by the hearing officer. All printed or typed motions shall be in type no smaller than ten (10) point nor closer than twelve (12) pitch. All written motions filed with the department which are longer than fifteen (15) pages in length shall contain an introduction, a table of contents and authorities, an argument and a conclusion section in which the filing person asks for specific relief. Failure to comply with the requirements of this subsection may be grounds for denying a motion.

(4) Any party making a motion may move for oral argument before the hearing officer on that motion. If the hearing officer grants oral argument on the motion, he shall record the oral argument and make the recording part of the record.

(5) If a pleading is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, the responding party may move for a more definite statement before filing a responsive pleading. The motion for more definite statement shall detail the defects complained of and shall set forth the details desired and explain how the details desired cannot be reasonably understood from the pleading. A hearing officer may on his own initiative require a party to file in the record a more definite statement of his allegations, claims, defenses and requested relief.

(6) If the hearing officer grants a motion for a more definite statement, the nonmoving party shall file an amended pleading setting forth the claims in the original pleading more definitely within ten (10) days of the hearing officer's order, or within such time as the hearing officer may order. If the nonmoving party does not timely file an amended pleading, the hearing officer may, upon motion, strike the pleading to which the motion was directed or make such order as the hearing officer deems just.

(7) After the time for filing any responsive pleading has passed, but within such time as not to delay a formal administrative hearing, any party may move for a recommendation on the pleadings. If, on such motion, matters outside the pleadings are presented to the hearing officer, the hearing officer shall treat and determine the motion as one for summary disposition. If no response has been filed to the department's complaint within the allotted time for doing same, the department may apply to the hearing officer, or directly to the commissioner or commissioner's designee for entry of the relief sought by default of the respondent or respondents. Pursuant to such application or motion for a final order by default, the final order containing the relief sought by the department shall be entered.

(8) At any time after an administrative action commences, a party may move for summary disposition of a claim in his favor. In moving for summary disposition, the moving party shall support any factual allegations with affidavits or citations to deposition testimony, answers to interrogatories, responses to requests to admit, documents or with other citations to the record.

(9) A hearing officer may grant a motion for summary disposition

and recommend the commissioner or commissioner's designee rule in the moving party's favor if the hearing officer finds that there is no genuine dispute as to any issue of material fact and the moving party is entitled to a summary disposition as a matter of law.

(10) If the hearing officer grants a motion for summary disposition in part, the hearing officer shall, as part of his order granting summary disposition in part, set forth all facts that are not genuinely disputed. These facts shall be established for the purpose of any subsequent proceedings in the administrative action. Following a partial summary disposition, the hearing officer shall order such further proceedings as are appropriate.

(11) Motions for postponements and continuances shall be granted upon good cause shown or written agreement of the parties. No motion for a postponement shall be granted if made within two (2) days of a prehearing conference or ten (10) days of an administrative hearing, unless compelling cause is shown therefor. All motions for a postponement shall be in writing and filed with the department, and shall be served upon all other parties to the administrative action.

(12) In the event that a party is prejudiced by some event at a hearing or subjected to some unfair disadvantage, and the hearing officer is of the opinion that some relief is warranted, the hearing officer may consider the granting of a continuance to remedy the harm or damage to the party. Such remedy of a continuance shall be preferred, if warranted, over other possible remedies. However, the hearing officer shall also give due regard to avoiding unnecessary delays.

Section 18. Immediate review of nondispositive rulings may be obtained pursuant to the following terms:

(1) At any time during the course of an administrative action, a party may move the hearing officer for leave to appeal any nondispositive ruling by the hearing officer to the commissioner or commissioner's designee for immediate review. The hearing officer may grant the motion upon a showing that the moving party's rights have been unduly prejudiced by the hearing officer's ruling, that the ruling will materially and adversely affect the presentation of the party's case before the hearing officer, and that the party does not otherwise have an adequate remedy in filing exceptions with the commissioner, or appeal to a court of law.

(2) If the hearing officer grants a motion for immediate review, the hearing officer shall reduce his ruling to writing, stay the administrative action, certify his ruling to the commissioner under this section and set an expedited briefing schedule for the parties. At the conclusion of the briefing schedule, the hearing officer shall cause the ruling and the briefs to be transmitted to the commissioner for review. The commissioner shall thereafter consider the matter and issue a ruling within a reasonable time period.

Section 19. Relief by or from default may be obtained pursuant to the following terms:

(1) If a party fails to timely comply with an order of a hearing officer or a requirement of this administrative regulation, the hearing officer shall file an order directing the noncomplying party to show cause why the hearing officer should not deem that party to have waived his right to an administrative hearing and why the hearing officer should not immediately recommend the commissioner enter an order adverse to the party. If the noncomplying party does not satisfy the show cause order as required, the hearing officer may recommend the commissioner enter a final order in conformity with the relief requested by the opposing party in the administrative action.

(2) If a party fails to appear at a formal administrative hearing, the hearing officer may deem that party to have waived his right to a formal administrative hearing and may immediately recommend the commissioner enter a final order in conformity with the relief requested in the appropriate pleadings, or may proceed without the defaulting party.

(3) Upon a party's failure to timely comply with a hearing officer's

order, the hearing officer may recommend the commissioner grant any relief to which the opposing party is entitled. Upon a party's failure to appear at a formal administrative hearing, the hearing officer shall recommend the commissioner grant the relief requested in the appropriate pleading.

(4) A hearing officer may, before the time for filing exceptions with the commissioner has run, set aside a recommendation by default under this section for good cause shown.

Section 20. The burden of proof and going forward shall be assigned to the parties as follows:

(1) The party proposing the department take action or grant a benefit shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion to show the propriety of the department action or entitlement to the benefit sought.

(2) The party asserting an affirmative defense shall have the burden of going forward and the ultimate burden of persuasion to establish that defense.

(3) The ultimate burden of persuasion in all administrative actions shall be met by a preponderance of substantial evidence in the record.

(4) Unless otherwise ordered by the hearing officer, the party with the burden of proof shall present its evidence first at a formal administrative hearing, followed by the opposing party. If new matters are raised in the presentation of the opposing party's evidence, the hearing officer shall afford the party with the burden of proof the opportunity to present rebuttal evidence. The hearing officer, may in his discretion, order the proof in any manner which will promote the orderly and prompt conduct of the hearing. The hearing officer shall give reasonable consideration to the efforts undertaken by nonparty witnesses to be in attendance at a hearing and any inconvenience that the hearing may cause them when making decisions as to order of proof, particularly witnesses.

(5) At the close of the presentation of evidence by a party at an administrative hearing, an opposing party may move the hearing officer for a directed disposition to the commissioner, stating the specific grounds therefor on the record. In ruling on the motion for directed disposition, the hearing officer shall consider all of the evidence in the record presented by the nonmoving party and shall draw all inferences therefrom in favor of the nonmoving party. If, after so considering the evidence, the hearing officer determines there is not substantial evidence appearing in the record upon which the commissioner could grant the nonmoving party relief, the hearing officer shall grant the moving party's motion and shall recommend that the commissioner deny the nonmoving party's request for relief. Any party aggrieved by such an action shall be permitted to file a written objection for consideration by the commissioner and any party opposing same shall be permitted to file a response to the written objection. The written objection shall plainly state the grounds for objection together with citations to supporting authority and shall be filed within fifteen (15) days of the entry date of the hearing officer's recommendation to the commissioner and shall be served upon all other parties and the hearing officer. The response to the written objection shall also state the grounds against the objection together with citations to supporting authority and shall be filed within ten (10) days of the date of the filing of the written objection to the hearing officer's recommendation to the commissioner and shall be served upon all other parties and the hearing officer.

(6) A motion for a directed disposition is not a waiver of the right to an administrative hearing. A party who moves for a directed disposition at the close of the evidence offered by an opponent may offer evidence in the event that the motion is not granted, without having to reserve the right to do so and to the same extent as if the motion had not been made.

Section 21. Evidence shall be considered and admitted to the record as follows:

(1) The hearing officer shall admit evidence in the record in accordance with KRS 13B.000 and reasonable administrative practice.

(2) The hearing officer may on his own motion or motion of a party, separate the witnesses while testimony is being offered, and may limit cumulative testimony by any witness. Notwithstanding this provision, the staff of the department who act as witnesses shall not be separated.

(3) Upon the exclusion of evidence offered for the record, the hearing officer may allow proffers of the excluded proof to be placed in the official record in any expeditious manner, including but not limited to allowing such evidence in the form of testimony, affidavits, summaries, excerpts or documents. Proffers of proof shall be placed in the record outside the presence of the hearing panel, if any, and shall not be considered part of the record for the purpose of rendering a recommended order.

(4) The hearing officer may admit documentary evidence in the record in the form of a copy or excerpt. Any party to the proceeding shall have the right to have the entire original admitted in to the record when an excerpt is entered. Photocopies shall be deemed originals and treated as such.

(5) The department may take statements from witnesses in connection with a matter before the department, with or without notice to and the presence of opposing parties or their counsel. Such statements may be taken under oath and recorded verbatim stenographically, electromechanically or by other means. Such statements may be introduced as evidence at any hearing. Upon request, opposing parties will be provided with an opportunity to confront and cross-examine these witnesses at the hearing.

(6) The department may solicit factual responses to questionnaires from complaining investors or parties in a matter before the department, which questionnaires shall take the form of affidavits. Such questionnaires may be introduced as evidence at a hearing to establish the factual allegations contained therein. Opposing parties shall be provided with copies of such questionnaires upon request prior to the hearing but by no means later than the time of the hearing. Upon reasonable notice to the department and with leave of the hearing officer, opposing parties may assemble their own questionnaires, also in the form of affidavits, to be distributed to complaining investors and compiled and admitted to the record. Parties desiring to utilize such questionnaires shall be required to do so through their own efforts and at their own expense, including postage expense. The completed and returned copies of such questionnaires shall be served upon all parties, including the department.

(7) Affidavits submitted by any party shall be admissible at hearings and shall be given the evidentiary weight deemed appropriate under the circumstances by the hearing officer.

Section 22. The recording of proceedings, creation of transcripts, and use and handling of exhibits shall be as follows:

(1) All testimony, proffers of proof, oral motions, objections and rulings thereon in an administrative action shall be recorded verbatim stenographically, electromechanically or by other means. However, in the discretion of the hearing officer, hearings on procedural motions may be held without recording and then memorialized in an order. Any party desiring to transcribe such proceeding may do so at its own expense and must make such transcription available at its cost to the other parties desiring such transcription.

(2) Upon the filing of a signed written agreement of the parties, any administrative hearing may be conducted in whole or in part by telephone, television or other electronic means in accordance with KRS 13B.080(7). If any part of a hearing is conducted by electronic means for which there is a charge, each party shall bear a pro rata portion of the cost of conducting the proceedings electronically, or shall bear such costs as the hearing officer deems just. Any part of a hearing conducted by electronic means shall be recorded steno-

graphically or by electromechanical means or by other means. Any electromechanical record of a hearing conducted by electronic means shall be filed in the record.

(3) A hearing officer may, in his discretion, order a transcript be made of all or a portion of any recording of an administrative action assigned to that hearing officer. The department shall bear the cost of a transcript ordered by the hearing officer.

(4) No party may cite to, quote or otherwise rely upon a transcript of a proceeding in any paper filed in the record, unless a complete copy of that transcript is also in the record. Any party may file a transcript cited, quoted or relied upon at the same time that party files the paper referring to the transcript. Failure to file a transcript as required by this subsection shall be grounds for denying a motion, or striking from the record all or part of a motion, memorandum, pleading or other paper violating this subsection.

(5) Following the close of the formal administrative hearing, the department shall retain the record, including all exhibits introduced at the administrative hearing, for at least five (5) years. After five (5) years, or the time for all appeals has expired or the final appeal has been decided, the department may dispose of the exhibits pursuant to the department's records retention procedures. The department need not notify the parties to the administrative action that they must retrieve their exhibits by a date certain or risk having them discarded.

Section 23. The following terms shall apply to posthearing procedures, exceptions, and jurisdiction:

(1) At the conclusion of an administrative hearing, the hearing officer may, within his discretion, order the parties to submit posthearing memoranda or draft recommended orders for the commissioner. If the hearing officer orders such filings, he may allow response times for each side. The hearing officer may in his discretion hear oral argument on posthearing filings. The record of the formal administrative hearing shall not close until after the time has run for all posthearing filings.

(2) As soon as practicable after the conclusion of the administrative hearing, the hearing officer shall file an order that memorializes the time, place and duration of the hearing of the administrative action and recites appearances by counsel and parties. The hearing officer shall order at the close of the hearing whether the hearing will be transcribed, and shall set this forth in the posthearing order. The posthearing order shall set a date for the final close of the record.

(3) Within five (5) days after the posthearing order is filed, or the transcript of the hearing is received by the department if a hearing officer orders a transcript, the department shall compile the official record, as defined in KRS 13B.120, and shall transmit a dated, certified copy of the record to the hearing officer. The hearing officer shall file a recommended order within sixty (60) days of the record's certified date.

(4) Any party filing exceptions to a hearing officer's recommended order as provided for in KRS 13B.110(4) shall file with their exceptions a draft final order for the commissioner. The excepting party's draft final order shall set out the relief the party requests in its exceptions. The party filing exceptions shall serve a copy on the hearing officer.

(5) The hearing officer shall retain jurisdiction over the administrative action until the time for filing exceptions under KRS 13B.110(4) has run. After that time, the administrative action shall be submitted to and within the sole jurisdiction of the commissioner.

(6) Administrative actions which have been on the docket of the department for a period of one (1) year without any activity shall be dismissed, with prejudice, for failure to prosecute unless there is good cause shown why they should not be dismissed. Once per year the department or the hearing officer shall determine all administrative action in which no activity has been taken for one (1) year or more. Thereafter, the hearing officer (or department as applicable) shall file an order directing the party commencing the administrative action to show cause why the administrative action should not be dismissed.

If the commencing party does not show good cause why the administrative action should not be dismissed, the hearing officer (or department as applicable) shall recommend that the commissioner dismiss the administrative action.

Section 24. Within sixty (60) days of the entry of a final judgment by a court of law resolving an appeal of a final order by the commissioner, the party prevailing in the appeal shall file with the department in the original administrative action a report notifying the department of the court's judgment. The reporting party shall attach to the report a copy of the court's judgment and shall recommend in the report actions to be taken to comply with the final judgment, along with a tendered final order implementing those actions.

Section 25. The following procedures shall apply when the Commissioner of the Department of Financial Institutions elects to enter a summary order to cease and desist or to suspend exemptions from registration or to suspend registrations or some similar summary order pursuant to the Securities Act of Kentucky, KRS Chapter 202.

(1) The commissioner may at any time enter a summary order to cease and desist or to suspend exemptions from registration or to suspend registrations or some similar summary order pursuant to the Securities Act of Kentucky, KRS Chapter 202 when in his sole discretion the facts and circumstances warrant such action.

(2) A summary order shall be utilized whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of the Securities Act of Kentucky, KRS Chapter 202, or any administrative regulation or order thereunder and such determination shall be within the sole discretion of the commissioner.

(3) The summary order shall be served upon the respondents as soon as practicable after entry.

(4) The respondents may request a hearing on the issue of whether a summary order is warranted in the matter pursuant to the notice of right to hearing and terms in the summary order for such a request.

(5) If a hearing is requested pursuant to this section, the matter shall be heard as soon as practicable.

(6) The matter may be heard by the commissioner, the hearing officer, or the commissioner's designee, as applicable.

(7) During the pendency of a matter in which a summary order has been entered, the commissioner or the commissioner's designee, as applicable, shall in no way be restricted from continuing to investigate the matter pursuant to KRS 202.460 nor shall he be under any duty to notify the respondents of the information the investigation reveals or any other details of the investigation.

(8) A hearing conducted pursuant to this section of this administrative regulation shall not preclude the respondents from receiving a complete hearing on all issues at some later date nor shall it prevent the department from confronting all issues at such later date.

(9) A hearing conducted pursuant to this section of this administrative regulation shall be solely on the issue of whether a summary order is warranted in the proceedings.

(10) In a matter in which a summary order has been entered, the respondents shall be bound by the terms of the summary order until it is vacated or modified by the commissioner.

(11) The entry of a summary order shall not in any other way limit the powers of the commissioner including the power to enter additional orders in the matter or to seek injunctive relief pursuant to KRS 202.470.

(12) In the event the commissioner discovers that violations are more widespread and involve more individuals and entities than originally known by the commissioner to exist, he shall in no way be precluded from expanding the matter in scope, including the amendment of an existing summary order to reflect additional discovered facts.

(13) In the event that pursuant to a hearing respondents convince

the commissioner or the commissioner's designee, as applicable, to vacate or modify the summary order, the commissioner or the commissioner's designee, as applicable, is not precluded from causing the department to prosecute the case to its conclusion through other sections of this administrative regulation.

(14) The commissioner, his designated hearing officer, or the commissioner's designee, as applicable, may from time to time make, enter and amend any orders that are necessary or beneficial in conducting proceedings pursuant to this section of this administrative regulation.

Section 26. This hearing procedures administrative regulation was written for proceedings brought pursuant to the Securities Act of Kentucky, KRS Chapter 202 and are only applicable to such proceedings. These hearing and hearing related procedures shall not apply to any actions brought pursuant to KRS Chapter 287 (Banks and Trust Companies), KRS Chapter 288 (Consumer Loans), KRS Chapter 289 (Savings and Loan Associations), KRS Chapter 290 (Credit Unions), KRS Chapter 291 (Industrial Loan Corporations), KRS Chapter 294 (Mortgage Loan Companies), KRS Chapter 366 (Sale of Checks), KRS Chapter 368 (Check Cashers), and any administrative regulations promulgated pursuant thereto.

Section 27. These hearing and hearing related procedures shall not apply in any fashion to investigations conducted pursuant to KRS 202.460. Nothing herein shall restrict or impair investigations conducted pursuant to KRS 202.460 in any way. Any subpoenas issued or other steps taken pursuant to an investigation brought pursuant to KRS 202.460 shall be outside the scope of these hearing and hearing related procedures.

Section 28. Disposition of Matters Before the Department, Remedies and Sanctions. At the conclusion of any matter before the department all findings of fact shall become final and unalterable provided that no court of law reverses or modifies the findings of fact. In the final order in any proceeding before the department, the commissioner shall fashion and impose by order an appropriate remedy and or sanction reasonably calculated to make the aggrieved parties whole and in the spirit and intent of the Securities Act. The remedy or sanction imposed shall be in the sole discretion of the commissioner. For purposes of a remedy, the aggrieved parties shall include the investing public in addition to actual complainants. The commissioner is not obligated to order rescission, reasonable attorneys fees, costs and interest but may do so in his sole discretion. Remedies or sanctions may include rescission, interest and reasonable attorneys fees and related costs incurred in connection with the sale or purchase of securities in violation of the Securities Act or incurred in pursuit of lawful remedies under the Securities Act. In addition, if the respondent is registered with the department, or the subject securities are registered, sanctions may include a temporary suspension, denial or revocation of the registration. If the respondent is eligible for or claims an exemption from registration, the exemption may be temporarily suspended, denied or revoked if the commissioner deems such action appropriate. Any remedy or sanction ordered by the commissioner may be enforced in a court of law by the department or any of the aggrieved parties to the extent the court will allow.

Section 29. Confidentiality. All investigations conducted by the department shall remain open and confidential until entry of a final order by the commissioner and the exhaustion of all appeals unless the commissioner by order rules to the contrary. Exceptions may be made on a case by case and item by item basis but are not mandatory. Attorney notes, correspondence in pursuit of litigation and work product and the work product of investigators directed to investigate a matter shall not be discoverable under any circumstances. Notwithstanding this provision, the department may share confidential information with any other law enforcement agency or self regulatory

organization at any time, and there shall be no waiver of privilege.]

LARRY D. LANDER, Commissioner
APPROVED BY AGENCY: February 14, 1997
FILED WITH LRC: February 14, 1997 at 10 a.m.

CABINET FOR FAMILIES AND CHILDREN
Department for Social Insurance
Division of Management and Development
(As Amended)

904 KAR 2:015. Supplemental programs for persons who are aged, blind, or have a disability.

RELATES TO: KRS 205.245, 20 CFR 416.2095, 416.2096, 8 USC 1621, 1641

STATUTORY AUTHORITY: KRS 194.050, 205.245, 42 USC 1382e-g, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children is authorized to administer a state funded program of supplementation to all December, 1973, former recipients of aid to the aged, blind and disabled, disadvantaged by the implementation of the Supplemental Security Income Program. KRS 205.245 provides for the mandatory supplementation program and also for supplementation to other needy persons who are aged, blind, or have a disability. The cabinet shall operate a supplement program for certified personal care homes which accept state supplementation recipients and have a thirty-five (35) percent of the residents in the personal care home's occupied licensed personal care beds who have a diagnosis of mental illness or mental retardation. This administrative regulation sets forth the provisions of the supplementation program.

Section 1. Definitions. (1) "Aid to the Aged, Blind and Disabled Program" means the former state funded program for individuals who were aged, blind or had a disability.

(2) "Qualified alien" means an alien who, at the time the person applies for, receives, or attempts to receive state supplementation, is an alien as defined in Section 1(10) of 904 KAR 2:006.

(3) "Specialized personal care home" means a licensed personal care home which receives funding from the Department for Mental Health and Mental Retardation Services to employ mental health professionals who have specialized training in the care of residents with mental illness or mental retardation.

Section 2. Mandatory State Supplementation. (1) Mandatory state supplementation payments shall be equal to the difference between:

(a) The Aid to the Aged, Blind and Disabled Program payment for the month of December, 1973, plus any other income available to the recipient as of that month; and

(b) The total of the Supplemental Security Income Program payment and other income for the current month.

(2) Recipients include former Aid to the Aged, Blind and Disabled Program recipients who became ineligible for the Supplemental Security Income Program due to income but whose special needs entitled them to an Aid to the Aged, Blind and Disabled Program payment as of December, 1973.

(3) Mandatory payments shall continue until:

(a) The needs of the recipient as recognized in December, 1973, have decreased; or

(b) Income has increased to the December, 1973 level.

(4) The mandatory payment **shall not be increased unless:** [ie increased only];

(a) [When] Income as recognized in December, 1973, decreases;

(b) The Supplemental Security Income Program payment is reduced but the recipient's circumstances are unchanged; or

(c) The standard of need utilized by the department in determining optional supplementation payments for a class of recipients is increased.

(5) In cases of a husband and wife living together, income changes after September, 1974, **shall not** [will] result in an increased mandatory payment **unless** [only if] total income of the couple is less than December, 1973, total income.

Section 3. Optional State Supplementation. (1) Optional state supplementation is available to a person who:

(a) Except as specified in Sections 5, 6, and 7 of this administrative regulation, meets technical requirements and resource limitations of the medically needy program for persons who are aged, blind, or have a disability as contained in 907 KAR 1:011 and 907 KAR 1:004; and

(b) Requires special living arrangements; and

(c) Has insufficient income to meet their need for care.

(2) Special living arrangements **shall** include:

(a) Residence in a personal care home which:

1. Meets the requirements and provides services as specified in 902 KAR 20:036; and

2. Is licensed under KRS 216B.010 to 216B.131; or

(b) Residence in a family care home which:

1. Meets the requirements and provides services as specified in 902 KAR 20:041; and

2. Is licensed under KRS 216B.010 to 216B.131; or

(c) Situations in which a caretaker must be hired to provide care other than room and board.

(3) Each person applying for or receiving state supplementation shall be required to:

(a) Furnish a Social Security number; or

(b) If a Social Security number has not been issued, apply for a Social Security number.

(4) If potential eligibility exists for Supplemental Security Income Program, application for Supplemental Security Income Program shall be mandatory.

Section 4. Eligibility for Caretaker Services. (1) Services by a caretaker shall be made to enable the individual with an illness or infirmity to:

(a) Remain safely and adequately:

1. At home;

2. In another family setting; or

3. In a room and board situation; and

(b) Prevent institutionalization.

(2) Services by a caretaker shall be made at regular intervals by:

(a) A live-in attendant; or

(b) One (1) or more persons hired to come to the home.

(3) A supplemental payment shall not be made to or on behalf of an otherwise eligible individual if:

(a) The client is taken daily or periodically to the home of the caretaker; or

(b) The caretaker service is provided by the following persons living with the applicant:

1. The spouse;

2. Parent of an adult child who has a disability or a minor child; or

3. Adult child of a parent who is aged, blind or has a disability.

(4) Eligibility for caretaker supplementation shall be verified by agency contact with the caretaker to establish:

(a) How often the service is provided;

(b) The service prevents institutionalization; and

(c) Payment is made for the service.

Section 5. Resource Consideration. (1) Except as stated in subsection (2) of this section, countable resources shall be determined according to policies for the medically needy as contained in

907 KAR 1:004.

(2) The individual or couple shall not be ~~[is not]~~ eligible if countable resources exceed the limit of:

- (a) \$2000 for individual; or
- (b) \$3000 for couple.

Section 6. Income Considerations. (1) Except as noted in subsections (2) through (9) of this section, income and earned income deductions shall be ~~[are]~~ considered according to policies for the medically needy in 907 KAR 1:004.

(2) The optional supplementation payment shall be ~~[is]~~ determined by adding:

(a) Total net income of the applicant or recipient, or applicant or recipient and spouse; and

(b) Except for payments for medical insurance or medical care and services, payments made to a third party in behalf of an applicant or recipient; and

(c) Subtracting the total of paragraphs (a) and (b) of this subsection from the standard of need in Section 7 of this administrative regulation.

(3) Income of the ineligible spouse shall be ~~[is]~~:

(a) Adjusted by deducting sixty-five (65) dollars and one-half (1/2) of the remainder from the monthly earnings; and

(b) Conserved in the amount of one-half (1/2) of the Supplemental Security Income Program standard for an individual for:

- 1. Himself; and
- 2. Each minor dependent child.

(4) Income of the eligible individual shall not be ~~[is not]~~ conserved for the needs of the ineligible spouse or minor dependent children.

(5) Income of the child shall be considered when conserving for the needs of the minor dependent child so the amount conserved does not exceed the allowable amount.

(6) The earnings of the eligible individual and spouse shall be combined prior to the application of the earnings disregard of sixty-five (65) dollars and one-half (1/2) of the remainder.

(7) If one (1) member of a couple is institutionalized and the spouse maintains a home, income in the amount of the Supplemental Security Income Program standard for one (1) shall be conserved for the spouse, if this spouse is a recipient of the Supplemental Security Income Program.

(8) A husband and wife residing in the same personal care or family care home may be considered to be living with each other if treating the husband and wife as living apart would prevent either of them from receiving state supplementation.

(9) The Supplemental Security Income Program twenty (20) dollars general exclusion shall not be ~~[is not]~~ an allowable deduction from income.

Section 7. Standard of Need. (1) The standard shall be based on living arrangement as follows:

(a) For an eligibility determination for a resident of a personal care home made on or after January 1, 1997, \$818 ~~[1996, \$804]~~;

(b) For an eligibility determination for a resident of a family care home made on or after January 1, 1997, \$623 ~~[1996, \$609]~~;

(c) Caretaker.

1. For an eligibility determination for a single individual, or an eligible individual with an ineligible spouse who is not aged, blind, or has a disability made on or after January 1, 1997, \$517 ~~[1996, \$503]~~;

2. For an eligibility determination for an eligible couple, both aged, blind, or have a disability and one (1) requiring care made on or after January 1, 1997, \$754 ~~[1996, \$733]~~;

3. For an eligibility determination for an eligible couple, both aged, blind or have a disability and both requiring care made on or after January 1, 1997, \$798 ~~[1996, \$777]~~.

(2) In couple cases, if ~~[when]~~ both are eligible, the couple's income is combined prior to comparison with the standard of need.

One-half (1/2) of the deficit is payable to each.

(3) The personal care or family care home shall accept as full payment for cost of care the amount of the standard, based on the living arrangement, minus a forty (40) dollars personal needs allowance which shall be retained by the client.

Section 8. Temporary Stay in a Medical Institution. (1) A recipient of optional or mandatory state supplementation shall have continuation of state supplementation benefits without interruption for any of the first three (3) full months of medical confinement if:

(a) Admitted to:

- 1. A hospital;
- 2. A psychiatric hospital;
- 3. A nursing facility; and

(b) The recipient's physician shall certify that he expects the recipient to be medically confined for ninety (90) full consecutive days or less; and

(c) The state supplementation recipient receives benefits from the Supplemental Security Income Program.

(2) If discharged in the month following the last month of continued benefits, the temporary absence shall continue ~~[continues]~~ through the date of discharge.

Section 9. Citizenship requirements. An applicant or recipient shall be:

(1) A citizen of the United States; or

(2) A qualified alien pursuant to Section 1(2) of this administrative regulation. ~~[An alien legally admitted to this country for permanent residence; or~~

~~(3) An alien who is residing in this country under color of law.]~~

Section 10. Residence Requirements. (1) The applicant or recipient shall be a resident of Kentucky.

(2) Supplemental payments may be made to Kentucky residents residing outside the state if:

(a) The individual has been placed in the other state by this state.

(b) Except with regard to the requirement shown in Section 8 of this administrative regulation, the other requirements for eligibility contained in this administrative regulation shall be applicable.

(c) For out-of-state placements, the licensure shall be in accordance with a similar licensure act of the other state.

(d) If there is no similar licensure act in the other state, the payment shall not be made unless ~~[may be made only if]~~ this state determines that, except for being in another state, the facility meets standards for licensure under the provisions of KRS 216B.010 to 216B.131.

(e) To be eligible for a supplemental payment while placed out-of-state:

1. The individual shall require the level of care provided in the out-of-state placement;

2. There shall be no suitable placement available in Kentucky; and

3. The placement shall be preauthorized by staff of the Department for Social Insurance.

(3) Except as specified in subsection (9) of this section, an applicant placed in Kentucky by another state shall not be considered a resident of Kentucky.

(4) The state of residence shall be Kentucky for an applicant or recipient of state supplementation if the individual:

- (a) Is age twenty-one (21) and over;
- (b) Is residing in the state; and

1. Intends to remain permanently or for an indefinite period; or

2. Entered the state with a job commitment or to seek employment.

(5) The applicant or recipient residing in a personal care home shall be ~~[is]~~ considered incapable of indicating intent to become a Kentucky resident if the individual:

(a) Has an I.Q. of forty-nine (49) or less or has a mental age of seven (7) or less, based on the following tests:

1. Bayley Scales of Infant Development;
2. McCarthy Scales of Children's Abilities;
3. Stanford-Binet;
4. Wechsler Adult Intelligence Scale - Revised (WAIS-R);
5. Wechsler Intelligence Scale for Children-III (WISC-III);
6. Wechsler Intelligence Scale for Children - Revised (WISC-

R); or

7. Wechsler Preschool and Primary Scale of Intelligence (WPPSI) [tests acceptable to the department]; or

(b) Is judged legally incompetent; or
(c) Is found incapable of indicating intent based on medical or other documentation acceptable to the state.

(6) For an applicant or recipient residing in a family care home or requiring caretaker services, the state of residence shall be Kentucky if the individual is:

- (a) Under age twenty-one (21);
- (b) Eligible for a supplemental payment based on blindness or disability; and
- (c) Residing in the state; or
- (d) An individual age twenty-one (21) or over and incapable of indicating intent, is simply residing in the state.

(7) For an applicant or recipient residing in a personal care home who is under age twenty-one (21) or who is age twenty-one (21) or older and became incapable of indicating intent before age twenty-one (21), the state of residence shall be Kentucky if Kentucky is the state of residence of the individual's:

- (a) Parents; or
- (b) If one has been appointed, his legal guardian; or
- (c) Parent applying for the supplemental payment on behalf of the individual if:
 1. The other parent lives in another state; and
 2. There is no appointed legal guardian.

(8) For an applicant or recipient residing in a personal care home who became incapable of indicating intent at or after age twenty-one (21), the state of residence shall be Kentucky if:

(a) He was living in Kentucky when he became incapable of indicating intent; or

(b) If this cannot be determined, the state of residence shall be Kentucky unless he was living in another state when he was first determined to be incapable of indicating intent.

(9) For an individual subject to a determination of residency according to subsections (7) and (8) of this section, the state of residence shall be Kentucky if Kentucky and the state that would otherwise be the individual's state of residency have entered into an interstate residency agreement providing for reciprocal residency status.

(10) An individual receiving a mandatory state supplemental payment from Kentucky shall be considered a resident of Kentucky if he continues to reside in Kentucky.

(11) An individual receiving a mandatory or optional supplemental payment from another state shall not be considered a resident of Kentucky.

(12) A former Kentucky resident who becomes incapable of indicating intent while residing out of this state, may reestablish Kentucky residency if:

- (a) He returns to Kentucky; and
- (b) He has a guardian, parent or spouse residing in Kentucky.

Section 11. Persons with Mental Illness or Mental Retardation Supplement. A certified personal care home may qualify for quarterly supplement payments of fifty (50) cents per diem for each state supplementation recipient in their care as of the first calendar day of each qualifying month. The personal care home shall meet the following criteria to qualify for a supplementation payment:

- (1) The personal care home shall be licensed in accordance with

KRS 216B.010 to 216B.131; and

(2) The personal care home shall care for residents who have:

(a) A primary or secondary diagnosis of mental retardation including mild or moderate, or other ranges of retardation whose needs can be met in a personal care home; or

(b) A primary or secondary diagnosis of mental illness excluding such diagnoses as organic brain syndrome, senility, chronic brain syndrome, Alzheimer's; or

(c) A medical history that includes a previous hospitalization in a psychiatric facility, regardless of present diagnosis.

(3) The personal care home shall care for a thirty-five (35) percent mental illness or mental retardation population in all of its occupied licensed personal care home beds.

(4) The personal care home shall not be eligible for payments during the time it has a conditional rating by the Office of Inspector General. Rating requirements are specified in KRS 216.550 and 900 KAR 2:030.

(5) The personal care home shall have a licensed nurse or an individual who has received and successfully completed certified medication technician training on duty for at least four (4) hours during the first or second shift each day. The personal care home may not decrease staffing hours of the licensed nurse or individual who has successfully completed certified medication technician training in effect prior to July 1990, as a result of this minimum requirement.

(6) The personal care home shall file an application with the Department for Social Insurance by the tenth working day of the first month of the calendar quarter to be eligible for payment in that quarter.

(a) Quarters shall begin in January, April, July and October.

(b) Once certified, unless eligibility is discontinued, a new application shall not be required.

(c) The personal care home shall provide the Department for Social Insurance with its tax identification number and address as part of the application process.

(7) The personal care home shall provide the Department for Social Insurance with a monthly report.

(a) The report shall list:

1. All residents of the personal care home who were residents on the first day of the month; and

2. The residents' Social Security numbers.

(b) In order to maintain confidentiality, the personal care home shall annotate the monthly report as follows:

1. A star shall indicate a resident has a mental illness or mental retardation diagnosis.

2. A check mark shall indicate a resident receives state supplementation.

3. A star and a check mark shall indicate the resident has a mental illness or mental retardation diagnosis and is a recipient of state supplementation.

(c) The monthly report shall be used for:

1. Certification;
2. Payment; and
3. Audit purposes.

(d) The monthly report shall be postmarked to the Department for Social Insurance by the fifth working day of the month.

(8) The personal care home shall notify the Department for Social Insurance if its mental illness or mental retardation percentage goes below thirty-five (35) percent for all personal care residents. Facilities may be randomly audited to verify percentages and payment accuracy.

Section 12. Training. (1) The personal care home licensed nurse or individual who has successfully completed certified medication technician training shall attend the mental illness or mental retardation basic training workshop provided through the Department for Mental Health and Mental Retardation Services. Other staff may attend the

basic training workshop in order to assure the facility always has at least one (1) certified staff employed for certification purposes.

(2) The mental illness or mental retardation basic training shall be provided through a one (1) day workshop. The following topics shall be covered:

- (a) Importance of proper medication administration.
- (b) Side affects and adverse medication reactions with special attention to psychotropics.
- (c) Signs and symptoms of an acute onset of a psychiatric episode.
- (d) Characteristics of each major diagnosis, for example, paranoia, schizophrenia, bi-polar disorder, or mental retardation.
- (e) Guidance in the area of supervision versus patient rights for the population with a diagnosis of mental illness or mental retardation.
- (f) Instruction in providing necessary activities to meet the needs of residents who have a diagnosis of mental illness or mental retardation.

(3) Initial basic training shall include the licensed nurse or the individual who has successfully completed certified medication technician training and may include the owner or operator. These individuals shall be trained in the quarter during which the application is filed.

(4) To assure that a staff member who has received basic training is always employed at the facility, a maximum of five (5) may be trained during a year.

(a) If staff turnover results in the loss of the licensed nurse or individual who has successfully completed certified medication technician training and five (5) staff have been trained, the personal care home shall request in writing to the Department for Social Insurance an exemption of the five (5) staff rule.

(b) The personal care home shall have on staff a licensed nurse or individual who has successfully completed certified medication technician training who:

- 1. Has received the mental illness or mental retardation basic training; or
- 2. Is enrolled in the next scheduled mental illness or mental retardation basic training workshop at the closest location.

(5) The Department for Mental Health and Mental Retardation Services may provide advanced level training for personal care homes.

(a) Advanced level training shall be provided through one (1) day workshops.

(b) Each advanced level workshop shall consist of two (2) three (3) hour sessions per day.

(c) Each three (3) hour session shall cover a topic appropriate for staff who work with residents who have a diagnosis of mental illness or mental retardation.

(d) Attendance of advanced level training workshops shall be optional for Persons with Mental Illness or Mental Retardation Supplement Program participants.

(6) The Department for Mental Health and Mental Retardation Services shall ~~will~~ provide within five (5) working days:

(a) A certificate to direct care staff who complete the workshop; and

(b) A listing to the Department for Social Insurance of staff who completed the training workshop.

(7) The Department for Social Insurance shall pay twenty-five (25) dollars for each staff member receiving basic or advanced level training up to the maximum of five (5) staff per year to a personal care home who has applied for the Persons with Mental Illness or Mental Retardation Supplement Program.

(8) Attendance of the basic training workshop shall be optional for a specialized personal care home.

Section 13. Persons with Mental Illness or Mental Retardation Supplement Program Certification. (1) The Office of the Inspector General, Division of Licensing and Regulation, shall visit the personal

care home to certify eligibility to participate in the Persons with Mental Illness or Mental Retardation Supplement Program:

(a) The personal care home's initial Persons with Mental Illness or Mental Retardation Supplement Program certification may be separate from the annual survey;

(b) The initial Mental Illness or Mental Retardation Supplement Program certification shall be in effect until the next licensure survey that may ~~can~~ be greater than or less than twelve (12) months;

(c) A personal care home's annual Persons with Mental Illness or Mental Retardation Supplement Program recertification may be completed during the annual licensure survey;

(d) The Department for Social Insurance shall notify the Division of Licensing and Regulation that the facility is ready to be certified.

(2) The Division of Licensing and Regulation shall review records, observe and interview residents and staff during the certification process. The Division of Licensing and Regulation shall review records to assure the following criteria is met:

(a) Certification is on file at the personal care home to verify staff attended basic training provided by the Department for Mental Health and Mental Retardation Services. This provision shall be waived for a specialized personal care home.

(b) The personal care home's certified staff have trained all other direct care staff through in-service training or orientation regarding the information obtained at the mental illness or mental retardation basic training workshop. The personal care home shall maintain documentation of attendance at the in-service training for all direct care staff.

(c) Activities are being regularly provided and meet the needs of the residents. When residents do not attend group activities, activities shall also be designed to meet the needs of individual residents, for example, reading or other activity that may be provided on an individual basis. Individualized care plans are not required to meet this criteria.

(d) Medication administration meets licensure requirements and licensed nurse or individual who has successfully completed certified medication technician training demonstrates a knowledge of psychotropic drug side affects.

(3) The Division of Licensing and Regulation shall review the personal care home copy of the training certification prior to performing their record review during the Persons with Mental Illness or Mental Retardation Supplement Program certification process.

(4) If thirty-five (35) percent mental illness or mental retardation population is met on the day of the visit, the personal care home shall be deemed to have an ongoing qualifying percentage effective with month of request for certification. The personal care home shall be ~~is~~ responsible for notifying the Department for Social Insurance, within ten (10) working days, if the mental illness or mental retardation population goes below thirty-five (35) percent of all occupied personal care beds in the facility.

(5) The Office of the Inspector General, Division of Licensing and Regulation, shall provide a monthly statement ~~form~~ to the Department for Social Insurance ~~monthly~~ identifying certified personal care homes eligible for the Persons with Mental Illness or Mental Retardation Supplement Program. This information shall be provided by the fifth working day of each month for the prior month.

(6) The Office of Inspector General, Division of Licensing and Regulation, shall inform the Department for Social Insurance monthly of a personal care home which receive a conditional rating. This information shall be provided by the fifth working day of each month for the prior month.

Section 14. Hearings and Appeals. Applicants or recipients of benefits under programs described herein who are dissatisfied with any action or inaction on the part of the cabinet shall have the right to a hearing under 904 KAR 2:055.

JOHN L. CLAYTON, Commissioner
VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: May 8, 1997
FILED WITH LRC: May 13, 1997 at 10 a.m.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Administration and Development
(As Amended)

907 KAR 1:270. Podiatry Program services.

RELATES TO: KRS 205.520, **42 CFR 440.60, 42 USC 1396a, b,**

d STATUTORY AUTHORITY: KRS 194.050, [42 CFR 440.60, 42 USC 1396a, b, d] **EO 96-862**

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, [Human Resources] has responsibility to administer the Medicaid Program [of Medical Assistance]. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. KRS 205.520 **authorizes [empowers]** the cabinet, by administrative regulation, to comply with **a [any]** requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation **establishes [sets forth]** the coverage provisions relating to podiatry services for which payment shall be made by the Medicaid Program on behalf of both [the] categorically needy and [the] medically needy **beneficiaries.**

Section 1. Coverage. The Medicaid program shall cover **a** medical **or [and]** surgical **service [services]** provided to **an** eligible Medicaid recipient [recipients] by a licensed, participating **podiatrist [podiatrists]** **if [when]** the **service falls [services fall]** within the scope of the practice of podiatry except as **provided [indicated]** in Section 2 of this administrative regulation. [otherwise provided for herein.] [The scope of coverage generally parallels the coverage available under the Medicare program with the addition of wart removal.]

Section 2. Exclusions From Coverage; Exceptions. **Except as provided in this section,** the following areas of care shall not be covered [except as specified]:

(1) [Treatment of flatfoot. Services directed toward the care or correction of flatfoot shall not be covered.]

(2) Treatment of subluxations of the foot. Surgical or nonsurgical treatments undertaken for the sole purpose of correcting a subluxated structure as an isolated entity within the foot shall not be covered; this exclusion of coverage does not apply to reasonable and necessary diagnosis and treatment of symptomatic conditions such as osteoarthritis, bursitis (including bunion), tendonitis, etc., that result from or are associated with partial displacement of foot structures, or to surgical correction that is an integral part of the treatment of a foot injury or that is undertaken to improve the function of the foot or to alleviate an induced or associated symptomatic condition.

(3) Orthopedic shoes and other supportive devices for the feet are not covered under this program element.

(4) Routine foot care.

(a) Except as provided in paragraph (b) of this subsection and subsection (2) of this section, a service [Services] characterized as routine foot care shall [generally] not be covered. Routine foot care shall include [this includes such services as]:

1. The cutting or removal of **a corn or callus;** [corns or calluses;]
2. The trimming of **a nail;** [nails;] **or [and]**

3. Other hygienic **or [and]** preventive maintenance care in the realm of self-care **including [such as]:**

a. Cleaning **or soaking a foot [and soaking the feet];**

b. The use of **a skin cream [creams]** to maintain skin tone of **an**

[both] ambulatory **or [and]** bedfast patient; [patients;] **or [and]**

c. A [Any] service [services] performed in the absence of localized illness, injury or **symptom [symptoms]** involving the foot. [Notwithstanding the preceding, payment may be made for routine foot care such as cutting or removing corns, calluses or nails]

(b) If the patient has a systematic disease of sufficient severity that unskilled performance of **the following [these]** procedures would be hazardous **and [;]** the patient's condition results **[must result]** from severe circulatory embarrassment or **an area [areas]** of desensitization in **a leg or foot [the legs or feet],** payment **shall [may]** be made **for routine foot care, including the [such as] cutting or removing of**

a:

1. Corn;

2. Callus; **or**

3. Nail. [Although not intended as a comprehensive list, the following metabolic, neurological, and peripheral vascular diseases (with synonyms in parentheses) most commonly represent the underlying systematic conditions contemplated and which would justify coverage; where the patient's condition is one (1) of these designated by an asterisk (*), routine procedures shall be reimbursable only if the patient is under the active care of a doctor of medicine or osteopathy for the condition and this doctor's name shall appear on the claim form:

(a) *Diabetes mellitus;

(b) Arteriosclerosis obliterans (A.S.O., arteriosclerosis of the extremities, occlusive peripheral arteriosclerosis);

(c) Buerger's disease (thromboangiitis obliterans);

(d) Chronic thrombophlebitis;

(e) Peripheral neuropathies involving the feet;

4. *Associated with malnutrition and vitamin deficiency, such as: malnutrition (general, pellagra); alcoholism; malabsorption (celiac disease, tropical sprue); and pernicious anemia;

2. *Associated with carcinoma;

3. *Associated with diabetes mellitus;

4. *Associated with drugs and toxins;

5. *Associated with multiple sclerosis;

6. *Associated with uremia (chronic renal disease);

7. Associated with traumatic injury;

8. Associated with leprosy or neurosyphilis; and

9. Associated with hereditary disorders, such as: hereditary sensory radicular neuropathy, angiokeratoma corporis, and diffusum (Fabry's), amyloid neuropathy.]

(2) [(6)] A service [Services] ordinarily considered routine shall [also] be covered **if the service is [they are]** performed as a necessary and integral part of **an** otherwise covered **service, including [services, such as]** the diagnosis **or [and]** treatment of:

(a) A diabetic ulcer;

(b) A wound; or [and]

(c) An infection. [ulcers, wounds, and infections.]

(3) A diagnostic or [and] treatment service [services] for a foot infection [foot infections] shall [also] be covered. [as they are considered outside the scope of "routine."]

Section 3. Provisions Relating to Special Diagnostic Services. Plethysmography is a recognized tool for the preoperative podiatric evaluation of the diabetic patient or one who has intermittent claudication or other signs or symptoms indicative of peripheral vascular disease which would have a bearing on the patient's candidacy for foot surgery. The method of plethysmography determines program coverage.

(1) Covered methods include:

(a) Segmental, including regional, differential, recording oscillometer, and pulse volume recorder;

(b) Electrical impedance; and

(c) Ultrasonic measure of blood flow (Doppler).

(2) Noncovered methods include:

(a) Inductance;

- (b) Capacitance;
 - (c) Strain gauge;
 - (d) Photoelectric; and
 - (e) Mechanical oscillemetry.
- (3) Venous occlusive pneumoplethysmography shall be appropriate only in the setting of a hospital vascular laboratory.]

Section 3. Incorporation ~~[Incorporated]~~ by Reference. (1) ~~[The]~~ "Podiatry Program Manual", July 1997 edition, Department of Medicaid Services, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

LARRY A. MCCARTHY, Deputy Commissioner
JOHN H. MORSE, Secretary

APPROVED BY AGENCY: May 7, 1997

FILED WITH LRC: May 13, 1997 at 10 a.m.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Administration and Development
(As Amended)

907 KAR 1:280. Payments for Podiatry Program services.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194.050, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, ~~[Human Resources]~~ has responsibility to administer the Medicaid Program ~~[of Medical Assistance in accordance with Title XIX of the Social Security Act]~~. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. KRS 205.520 authorizes ~~[empowers]~~ the cabinet, by administrative regulation, to comply with a ~~[any]~~ requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes ~~[sets forth]~~ the method for determining payments for podiatry services.

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services or its designee.

(2) "Resource-based relative value scale (RBRVS) unit" means a value based on the service ~~[assigned to a medical procedure]~~ which takes into consideration the practitioner's work, practice expenses, liability insurance, and a geographic factor based on the price ~~[prices]~~ of staffing and other resources required to provide the service in an area relative to national average prices.

Section 2. Payments for Podiatry Services. (1) ~~[For services provided on or after July 1, 1990:]~~ The cabinet shall reimburse a licensed, participating podiatrist ~~[podiatrists]~~ for a covered podiatry service within the podiatrist's scope of licensure as established in 907 KAR 1:270, except a laboratory service ~~[services]~~, provided ~~[services rendered]~~ to an eligible Medicaid recipient ~~[Medical Assistance recipients]~~ at the usual and customary actual billed charge up to the fixed upper limit per procedure established by the department using the the ~~[a]~~ Kentucky Medicaid fee schedule developed from a resource-based relative value scale (RBRVS) on parity with medical doctors as described in subsection (2) of this section. If an RBRVS based fee is not established, the department shall set a reasonable fixed upper limit for the procedure consistent with general Medicaid rate setting methodology. ~~[cabinet at sixty five (65) percent of the median billed charge for outpatient services and fifty (50) percent of~~

the median billed charge for inpatient services using 1989 calendar year billed charges. If there is no median available for a procedure, or the cabinet determines that available data relating to the median for a procedure is unreliable, the cabinet shall set a reasonable fixed upper limit for the procedure consistent with the general array of upper limits for the type of service. Fixed upper limits not determined in accordance with the principle shown in this section of the administrative regulation (if any) due to consideration of other factors (such as recipient access) shall be specified in the administrative regulation.]

(2) The RBRVS unit ~~[units]~~ shall be multiplied by a dollar conversion factor to arrive at the fixed upper limit. The department ~~[limits Medicaid]~~ shall use the Kentucky conversion factor for "All Other Services" as established ~~[referenced]~~ in 907 KAR 3:010, Section 2(2)(b).

(3) Reimbursement for a covered clinical laboratory service shall be based on the Medicare allowable payment rate. For a laboratory service with no established allowable payment rate, the payment shall be sixty-five (65) percent of the usual and customary actual billed charge.

LARRY A. MCCARTHY, Deputy Commissioner
JOHN H. MORSE, Secretary

APPROVED BY AGENCY: May 6, 1997

FILED WITH LRC: May 13, 1997 at 10 a.m.

CABINET FOR HEALTH SERVICES
Department For Medicaid Services
Division of Administration and Development
(As Amended)

907 KAR 1:413. Repeal of 907 KAR 1:412.

RELATES TO: KRS ~~[13A.340.]~~ 205.520

STATUTORY AUTHORITY: KRS ~~[13A.340.]~~ 194.050, 205.520(3), EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. KRS 205.520 authorizes ~~[empowers]~~ the cabinet, by administrative regulation, to comply with a requirement ~~[any requirements]~~ that may be imposed, or opportunity presented, by federal law for the provision ~~[provisions]~~ of medical assistance to Kentucky's indigent citizenry. This administrative regulation repeals ~~[acts specifically to repeal]~~ 907 KAR 1:412 which is no longer needed because the manual that was incorporated by reference in that administrative regulation is now included in a new manual incorporated by reference in 907 KAR 1:270.

Section 1. 907 KAR 1:412, Incorporation by reference of the Podiatry Services Manual, is hereby repealed.

LARRY A. MCCARTHY, Deputy Commissioner
JOHN H. MORSE, Secretary

APPROVED BY AGENCY: May 8, 1997

FILED WITH LRC: May 13, 1997 at 10 a.m.

ADMINISTRATIVE REGISTER - 386

CABINET FOR HEALTH SERVICES
Department For Medicaid Services
Division of Administration and Development
(As Amended)

907 KAR 1:433. Repeal of 907 KAR 1:374 and 907 KAR 1:378.

RELATES TO: KRS ~~[13A.340]~~ 205.520

STATUTORY AUTHORITY: KRS ~~[13A.340]~~ 194.050, 205.520(3),

EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. KRS 205.520 authorizes ~~[empowers]~~ the cabinet, by administrative regulation, to comply with a requirement ~~[any requirements]~~ that may be imposed, or opportunity presented, by federal law for the provision ~~[provisions]~~ of medical assistance to Kentucky's indigent citizenry. This administrative regulation repeals ~~[acts specifically to repeal]~~ 907 KAR 1:374 and 907 KAR 1:378, which are no longer needed because the manuals that were incorporated by reference in those administrative regulations are now included in new manuals incorporated by reference in 907 KAR 1:022 and 907 KAR 1:025.

Section 1. 907 KAR 1:374, Incorporation by reference of the Skilled Nursing Facility Manual, and 907 KAR 1:378, Incorporation by Reference of the Intermediate Care Facility Services Manual are hereby repealed.

LARRY A. MCCARTHY, Deputy Commissioner

JOHN H. MORSE, Secretary

APPROVED BY AGENCY: May 8, 1997

FILED WITH LRC: May 13, 1997 at 10 a.m.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, JULY 15, 1997

**PERSONNEL BOARD
(Amendment)**

101 KAR 1:365. Appeal and hearing procedures.

RELATES TO: KRS Chapter 13B, 18A.075, 18A.0751, 18A.095
STATUTORY AUTHORITY: KRS 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 provides that the Personnel Board shall promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751 provides that the Personnel Board shall promulgate comprehensive administrative regulations providing for the procedures to be utilized by the board in the conduct of hearings. This administrative regulation establishes Personnel Board hearing procedures.

Section 1. Filing. (1) Appeals and documents related thereto shall be filed with the Personnel Board through the office of the executive director.

(2)(a) Appeals, motions, requests, objections, exceptions, responses, witness lists, or other documents may be filed by a party with the board by means of facsimile transmission.

(b) If a party transmits a document to the board by facsimile transmission, he shall attempt to transmit the document to all parties by facsimile transmission.

(3) To be timely filed, a document transmitted by facsimile shall be received by the board within the statutory or regulatory times specified for filing and be received by the board no later than midnight on the last day for filing.

(4) The original of all facsimile transmissions shall be received by the Personnel Board no later than three (3) business days after transmission or the document transmitted shall be voided unless good cause is shown.

(5) The date of filing of a document filed by facsimile transmission shall be the date the original of the document was received by the board, if the board fails to receive the facsimile transmission.

(6) A state employee shall not use state time, equipment, materials, or personnel in pursuing an appeal.

(7) All appeals shall be heard in Frankfort, Kentucky.

Section 2. Designation of Hearing Officer. (1) Unless otherwise directed by the board, the executive director shall assign a hearing officer or officers to an appeal.

(2) If more than one (1) hearing officer is assigned, one (1) shall be designated as chief hearing officer.

(3) If an appeal will be heard by the full board, the chairman of the board shall serve as the chief hearing officer.

Section 3. Continuances. (1) A continuance of a scheduled hearing may be granted by a hearing officer for good cause.

(2) A request for a continuance shall:

(a) Be written;

(b) State the reason for the request;

(c) Include proposed dates for rescheduling the hearing;

(d) Be filed with the board; and

(e) Be mailed to all parties at least ten (10) days prior to the scheduled hearing.

(3) An objection to a request for a continuance shall:

(a) Be written;

(b) State the reason for the objection to the request for continuance;

(c) Be filed with the board; and

(d) Be mailed to all parties at least five (5) days prior to the

scheduled hearing.

(4)(a) At the direction of the hearing officer, the executive director shall execute and transmit to all parties an interim order either granting or denying the request for continuance.

(b) If the request for continuance is granted, the interim order shall state the date on which the hearing has been rescheduled or that the hearing has been continued generally.

Section 4. Prehearing Procedures. (1) A motion, request or filing shall be in writing, filed with the board through the office of the executive director, and served on all parties.

(2) Unless an interim order provides for review by the board prior to the conclusion of a hearing, the board shall review an interim order when it considers the recommended order, record, and exceptions.

(3) If an employee retains counsel subsequent to filing his appeal, his attorney shall file a written entry of appearance.

(4) An employee shall notify all parties and the board in writing of a change of address.

(5)(a) Kentucky Personnel Board subpoena forms shall be available in the office of the executive director and shall be issued by the executive director.

(b) Preparation and service of the subpoena and compliance with the subpoena shall be the responsibility of the party requesting the subpoena.

(6) Depositions may be taken only in extraordinary circumstances and upon authorization by the hearing officer. A request to take a deposition shall be filed at least fifteen (15) days prior to the scheduled hearing. An objection to the request shall be filed prior to the scheduled hearing.

(7) Upon agreement of all parties and approval by the hearing officer, two (2) or more appeals which involve the same or similar facts may be consolidated. Upon motion of any party, or upon his own motion, the hearing officer may join other parties as necessary to appropriately consider the matter.

(8) An agreed settlement shall be submitted in writing for review and final action by the board.

Section 5. Conduct of Hearing. (1) Unless the appeal is heard by the full board, the hearing officer assigned shall hear the appeal.

(2) A party shall provide four (4) copies of an exhibit that is to be introduced as evidence. Copies shall be prepared prior to the hearing.

Section 6. Board Review and Action. (1) Responses to written exceptions to recommended orders may be filed by a party within five (5) days after the date the written exceptions are filed with the board.

(a) Responses shall be in writing.

(b) Responses shall be served on all parties.

(2) At the request of a party or on its own motion the board may permit oral arguments before the full board.

(a) Request for oral arguments shall be in writing.

(b) Request for oral arguments shall be filed with the board within fifteen (15) days of issuance of a recommended order.

(3) A final order shall be prepared, executed and entered at the direction of the board by the secretary to the board.

Section 7. Incorporation by Reference. (1) The following forms are incorporated by reference:

(a) "Kentucky Personnel Board Appeal Form (3-25-91)"; and

(b) "Kentucky Personnel Board Subpoena Form (2-90)".

(2) These forms may be inspected, copied or obtained at the office of the Personnel Board, 28 Fountain Place, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) The following statutory definitions are incorporated by

reference:

- (a) KRS 344.030(1);
- (b) KRS 344.030(6);
- (c) KRS 344.030(7);
- (d) KRS 344.030(8); and
- (e) KRS 344.030(9).

PETE B. OWENS, Chairman

APPROVED BY AGENCY: June 13, 1997

FILED WITH LRC: July 14, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 25, 1997, at 9 a.m., at 5 Fountain Place, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by August 18, 1997, five working days prior to the scheduled hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: R. Hanson Williams, Executive Director, Commonwealth of Kentucky, Personnel Board, 28 Fountain Place, Frankfort, Kentucky 40601, Telephone: (502) 564-7830.

REGULATORY IMPACT ANALYSIS

Contact Person: R. Hanson Williams

(1) Type and number of entities affected: All state agencies with classified employees.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No public comments received. Cost of living and employment not affected.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No public comments received. Cost of doing business not affected.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: Compliance does not result in increased reporting, paperwork or cost.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No new source of revenue required.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No public comments received. No economic impact.

(b) Kentucky: No public comments received. No economic impact.

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits: None

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect on environment and public health will result if not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect will result.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This administrative regulation does not conflict, overlap or duplicate any statute, administrative regulation or government policy.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not applied because it was not necessary.

KENTUCKY REVENUE CABINET
Department of Law
Division of Tax Policy
(Amendment)

103 KAR 15:050. Filing dates and extensions.

RELATES TO: KRS 131.081(11), 131.170, 136.100, 141.042, 141.160, 141.170, 141.300

STATUTORY AUTHORITY: KRS 131.130(1), 141.042(6), 141.050(4), 141.300(6) [Chapter 13A]

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapters 131 and 141 authorize the Revenue Cabinet to grant a taxpayer an extension of time to file a tax return or to pay an installment of estimated income tax. This administrative regulation establishes the procedures to be used by an individual, a corporation, or a noncorporate entity to obtain an extension of time to file an income or corporation license tax return or to pay an installment of estimated income tax for a taxable year. [This administrative regulation is specifically required by KRS 141.042 and 141.300 to provide filing dates and extensions for declarations of estimated income tax for income tax returns.]

Section 1. Definitions. As used in this administrative regulation:

(1) "Corporation" means a corporation as defined in KRS 141.010(24), an S corporation as defined in KRS 141.010(25), a limited liability company taxed as a corporation, or any other entity taxed as a corporation for Kentucky income tax purposes;

(2) "Date prescribed by KRS 136.100 or 141.160" means the 15th day of the fourth month following the close of the taxable year; and

(3) "Noncorporate entity" means a partnership, a limited liability company treated as a partnership, a trust, a fiduciary, or any other entity not taxed as a corporation for Kentucky income tax purposes.

Section 2. Filing Dates for an Income or Corporation License Tax Return. (1) Every individual, corporation, and noncorporate entity required to file an income or license tax return pursuant to KRS Chapters 136 or 141 shall file the return [income tax returns must be filed] with the Revenue Cabinet by the 15th day of the fourth month following the close of the taxable year unless an extension of time for filing is granted.

(2) If the filing [due] date for an income or a corporation license tax return falls on a [is] Saturday, Sunday, or a legal holiday, the filing [due] date is deemed to be the next business day. [If the envelope bearing the return is postmarked on or before the due date, late filing penalties will not apply.]

Section 3. An Extension of Time for Filing an ~~[2-Extensions: Individual] Income or Corporation License Tax Return.~~ (1) Pursuant to KRS 131.081(11) and 141.170, a taxpayer ~~[Returns. The cabinet is authorized to grant extensions of time for filing income tax returns. Individual taxpayers]~~ may obtain an extension of time for filing a Kentucky income tax return ~~[extensions]~~ by means of either a federal extension or a Kentucky extension. ~~[of the following methods:]~~

(2) Federal extension.

(a) A taxpayer granted an extension of time for filing a federal income tax return shall be granted the same extension of time for filing a Kentucky income tax return for the same taxable year provided a copy of the federal extension approval or request for an automatic extension is attached to the Kentucky income tax return when it is filed.

(b) An extension of time for filing a Kentucky income tax return granted pursuant to this subsection shall be valid only for the extension period granted by the Internal Revenue Service.

(c) A copy of the federal extension shall not be mailed to the Revenue Cabinet on or before the date prescribed by KRS 141.160, except as provided in Section 4 of this administrative regulation.

(3) Kentucky extension. A taxpayer ~~[(4) Specific request. Taxpay-~~ers] may file an application for extension ~~[requeste]~~ with the ~~[Income Withholding Tax Section, Department of Processing and Enforcement, Kentucky] Revenue Cabinet, on or [Post Office Box 1100, Frankfort, Kentucky 40602,] before the date prescribed by KRS 141.160 for filing ~~[due date of]~~ the return.~~

(a) An individual or a noncorporate entity shall file "Application for Extension of Time to File Individual, Partnership and Fiduciary Income Tax Returns for Kentucky", Revenue Form 40A102.

1. An individual or a noncorporate entity shall state ~~[Extension requests must contain]~~ the reason ~~[reasons]~~ for the request on the application for extension. Inability to pay the tax liability is not a valid reason.

2. An individual or a noncorporate entity shall ~~[Upon approval, taxpayers will]~~ be notified by mail if the application for extension is denied. A copy of an approved application for extension shall not be returned to the individual or noncorporate entity.

3. An individual or a noncorporate entity shall be ~~[A copy of the approved extension must be attached to the return when it is filed. Extensions requested under this method are automatically]~~ granted an extension of time to file for six (6) months unless the application for extension is denied.

4. An individual outside the United States shall be granted an extension of time to file for twelve (12) months unless the application for extension is denied. ~~[(twelve (12) months for individuals outside the United States)]~~

5. A copy of the signed and dated application for extension shall be attached to the income tax return when it is filed.

(b) A corporation shall file "Application for Six-month Extension of Time to File Kentucky Corporation Income and License Tax Return", Revenue Form 41A720SL.

1. A corporation shall be granted an extension of time to file for six (6) months.

2. A copy of an approved application for extension shall not be returned to the corporation.

3. The extension shall become valid when mailed to the Revenue Cabinet on or before the date prescribed by KRS 141.160 for filing the return.

4. The corporation shall attach a copy of the signed and dated application for extension to its "Kentucky Corporation Income And License Tax Return", Revenue Form 720, when it is filed.

(4) An extension of time for filing a consolidated Kentucky corporation income tax return shall constitute an extension of time for filing for each member of the affiliated group.

(5) An extension of time for filing a corporation income tax return shall constitute an extension of time for filing a corporation license tax return for the same taxable year.

Section 4. Payment of Tax. (1) An extension of time to file an income or corporation license tax return shall not constitute an extension of time to pay the tax.

(2) Every taxpayer shall determine if any amount of tax remains unpaid on or before the date prescribed by KRS 136.100 or 141.160 for filing the return.

(3) If tax remains unpaid, a check for the amount of any unpaid tax shall be submitted to the Revenue Cabinet on or before the date prescribed by KRS 136.100 or 141.160 for filing the return along with the Kentucky extension or a copy of the federal extension.

(4) Every corporation shall write its Kentucky Account Number in the upper right hand corner of the federal extension submitted.

(5) An affiliated group filing a consolidated income tax return and making a payment of tax with the application for extension shall file a Kentucky extension to ensure the proper processing of payments.

Section 5. Interest and Penalties. (1) Statutory interest shall be paid from the date prescribed by KRS 136.100 or 141.160 for filing the return ~~[original due date]~~ until the tax is paid.

(2) Failure to file the return by the date prescribed by KRS 136.100 or 141.160 including extensions of time may result in the assessment of a late filing penalty pursuant to KRS 131.180(1). If the envelope bearing the return is postmarked on or before the filing date, no late filing penalty shall apply.

(3) Failure to attach a copy of the Kentucky application for extension or the federal application for extension to the return when filed may result in the assessment of a late filing penalty pursuant to KRS 131.180(1).

(4) Failure to pay the tax due by the date prescribed by KRS 136.100 or 141.160 for filing the return may result in the assessment of a late payment penalty pursuant to KRS 131.180(2). ~~[Federal extensions. Taxpayers will be granted the same extension of time for filing Kentucky income tax returns as they are granted for filing federal income tax returns. A specific request to the cabinet is not required, under this method, but a copy of the federal extension approval(e), or request for an automatic extension must be attached to the return when it is filed. Extensions requested under this method are only for the extension period(s) granted by the Internal Revenue Service and are not automatically granted for six (6) months. Tax due plus statutory interest must be paid from the normal due date until the return is filed. Failure to file and pay the tax by the extended due date will result in late filing penalties.]~~

Section 6. Extension of Time to Pay Estimated Income Tax. (1) A request ~~[3-Extensions: Individual Declaration. An application]~~ for an extension of time to pay an installment of ~~[for filing a declaration of]~~ estimated ~~[income]~~ tax prescribed by KRS 141.042 and 141.300 shall be submitted to ~~[filed with]~~ the ~~[Individual Withholding Tax Section, Department of Processing and Enforcement, Kentucky] Revenue Cabinet, [Post Office Box 1100,] Frankfort, Kentucky 40620 [40602].~~

(2) The request ~~[application]~~ shall state a ~~[contain the]~~ basis for the extension ~~[request]~~.

(3) An extension of time to pay an installment of ~~[for filing declara-~~tions of] estimated tax shall ~~[will]~~ be granted for thirty (30) days and only under exceptional circumstances. ~~[If approved, the extension will be granted for thirty (30) days from the normal due date.]~~

(4) Interest shall be paid from the due date of the installment of estimated tax until the tax is paid. ~~[The approval also extends the time for paying installments of estimated tax for thirty (30) days.]~~

Section 7. Incorporation by Reference. (1) The following forms are incorporated by reference:

(a) "Application for Extension of Time to File Individual, Partnership and Fiduciary Income Tax Returns for Kentucky", Revenue Form 40A102, (9-97); and

(b) "Application for Six-month Extension of Time to File Kentucky Corporation Income and License Tax Return", Revenue Form

41A720SL, (9-97).

(2) These forms may be obtained or inspected at the Kentucky Revenue Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40620, or at any Kentucky Revenue Cabinet Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m. [4-Extensions: Corporation Income and License Tax Returns. A corporation may file an extension request with the Corporation Income Tax Section, Department of Processing and Enforcement, Kentucky Revenue Cabinet, Post Office Box 1302, Frankfort, Kentucky 40602. The extension request must be filed on or before the due date of the return and ninety (90) percent of the income tax due for the taxable year (or the income tax shown on the return for the preceding year) must be paid by that date. Payment includes credit(s) for declaration payment(s) or overpayment(s) of prior taxable year(s) credited to the current taxable period. A copy of an approved extension will not be returned to the corporation, but a copy of the extension request must be attached to the return when it is filed. Under the provisions of KRS 141.170, the cabinet is not authorized to grant an extension of time for filing a corporation income tax return unless the taxpayer both files the extension request on or before the return due date and also prepays at least ninety (90) percent of the income tax due for the year (or pays the amount of income tax shown on the return for the preceding taxable year covering a twelve (12) month period) by such return due date. (No prepayment is required if the return for the preceding year shows no tax liability.) Failure to comply with either of these requirements may require application of the penalty imposed by KRS 141.090(2). Any penalty assessed shall not apply to amounts paid on or before the original due date of the return. Statutory interest shall be paid from the original due date until the tax is paid. A timely extension request is automatically an extension for filing the corporation license tax return for the same taxable year. The corporation is not required to prepay the license tax to obtain a license tax extension. If an extension is invalid for income tax purposes, this will not invalidate the extension for license tax. A corporation may elect to pay the license tax due when an extension is requested. Tax due plus interest shall be paid from the due date until the license tax return is filed and payment submitted. Corporations which are members of a consolidated group or affiliates of another corporation must each file separate extension requests.

Section 5-Extensions: Corporation Declarations. An application for an extension of time for filing a corporation declaration of estimated income tax shall be filed with the Corporation Income Tax Section, Department of Processing and Enforcement, Kentucky Revenue Cabinet, Post Office Box 1302, Frankfort, Kentucky 40602, and shall contain the basis for the extension request. An extension of time for filing a declaration of estimated tax will be granted only under exceptional circumstances. If approved, the extension will be granted for thirty (30) days from the normal due date. The approval also extends the time for paying installments of estimated tax for thirty (30) days.]

MARGARET A. HANDMAKER, Secretary
ALEX W. ROSE, Commissioner

APPROVED BY AGENCY: July 14, 1997

FILED WITH LRC: July 14, 1997 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 29, 1997, at 11 a.m. at Training Room A, 200 Fair Oaks Lane, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 22, 1997, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be

heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jennifer C. Hays, Tax Consultant, Revenue Cabinet, Division of Tax Policy, 200 Fair Oaks Lane, Third Floor, Frankfort, Kentucky 40620, Telephone Number: (502) 564-6843, extension *4435, Facsimile Number: (502) 564-9565, E-Mail Address: jhays@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS

Contact person: Jennifer C. Hays

(1) Type and number of entities affected: Any corporation or individual taxpayer wishing to extend the time to file an income tax return may be affected by this administrative regulation.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: This administrative regulation will have no effect on the cost of living and employment within Kentucky.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: This administrative regulation will have no effect on the cost of doing business within Kentucky.

(c) Compliance, reporting, and paperwork requirements including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: The administrative regulation clarifies the procedure for extending the time to file an income tax return. The compliance, reporting, and paperwork requirements have not been changed. Costs will be neither increased or decreased.

2. Second and subsequent years: The compliance, reporting, and paperwork requirements have not been changed. Costs will be neither increased or decreased.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The administrative regulation clarifies the procedure for extending the time for filing an income tax return thereby reducing the administrative costs associated with processing an income tax return.

2. Continuing costs or savings: The administrative regulation clarifies the procedure for extending the time for filing an income tax return thereby reducing the administrative costs associated with processing an income tax return.

3. Additional factors increasing or decreasing costs: There are no additional factors which either increase or decrease costs.

(b) Reporting and paperwork requirements: Paperwork requirements will be decreased since individual taxpayers will only be notified if the Kentucky extension is denied. A copy of an approved extension will not be returned to the individual.

(4) Assessment of anticipated effect on state and local revenues: No effect.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: None required.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:

(a) Geographical area in which administrative regulation will be implemented: No impact.

(b) Kentucky: No impact.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods are allowed in accordance with KRS 131.170, 141.042, 141.170, and 141.300.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effect.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No effect.

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The provisions of this administrative regulation will be applied equally to all corporation and individual taxpayers requesting an extension of time to file an income tax return.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Nursing
(Amendment)**

201 KAR 20:240. Fees for applications and for services.

RELATES TO: KRS 61.874(3), 314.041(5), 314.042(3), (6), 314.051(2), 314.071(1), (2), 314.073(7), 314.161, 200 KAR 1:020

STATUTORY AUTHORITY: KRS 61.874(3), 314.131, 314.142, 314.161

NECESSITY, FUNCTION, AND CONFORMITY: To establish fees to carry out the provisions of KRS Chapter 314.

Section 1. Fees for Licensure and Registration Applications. (1) The board shall collect fees for:

- (a) Applications for licensure;
- (b) Applications for registration;
- (c) Licensure renewal or reinstatement.

(2) The fees for applications shall be:

- (a) Licensure as a registered nurse - eighty (80) [~~seventy (70)~~] dollars.
- (b) Licensure as a licensed practical nurse - eighty (80) [~~seventy (70)~~] dollars.
- (c) Biennial renewal of active license - fifty-five (55) [~~forty-five (45)~~] dollars.
- (d) Biennial renewal of inactive license - thirty-five (35) dollars.
- (e) Reinstatement of license - eighty (80) [~~seventy (70)~~] dollars.
- (f) Active to inactive license status - forty (40) [~~thirty-five (35)~~] dollars.
- (g) Inactive to active license status - fifty (50) [~~forty-five (45)~~] dollars.
- (h) [~~Endorsement~~] Verification of original [~~Kentucky~~] licensure or registration - twenty-five (25) [~~twenty (20)~~] dollars.
- (i) Duplicate license or registration card or letter - twenty (20) dollars.
- (j) Registration as an advanced registered nurse practitioner - eighty (80) [~~seventy (70)~~] dollars.
- (k) Biennial renewal of registration as an advanced registered nurse practitioner - fifty-five (55) [~~forty-five (45)~~] dollars.
- (l) Reinstatement of registration as an advanced registered nurse practitioner - eighty (80) [~~seventy (70)~~] dollars.
- (3) An application shall not be evaluated unless current fee is submitted.

Section 2. Fees for Applications for Continuing Education Approvals. Fees for applications for approval of providers of continuing education and for renewal or reinstatement thereof shall be:

- (1) Initial provider approval - \$200 [~~\$100~~].

(2) Reinstatement of provider approval - \$100.

(3) Biennial renewal of approval - \$100 [~~fifty (50) dollars~~].

(4) Individual review of continuing education offerings - ten (10) dollars.

Section 3. Fees for Services. (1) Fees for services shall be:

(a) Applicants for licensure who are retaking the examination - forty (40) [~~thirty (30)~~] dollars.

(b) Verification of licensure or registration letter:

1. One (1) to five (5) verifications - ten (10) dollars;

2. Eight (8) to ten (10) verifications - twelve (12) dollars;

3. Eleven (11) to fifteen (15) verifications - fourteen (14) dollars;

4. Sixteen (16) to twenty (20) verifications - fifteen (15) dollars;

5. Twenty-one (21) to fifty (50) verifications - twenty-five (25) dollars;

6. Fifty-one (51) to 100 verifications - forty (40) dollars; and

7. 100 or more verifications - fifty (50) dollars. [~~five (5) dollars~~]

(c) Copy of examination results or transcripts - five (5) dollars.

(d) Nursing certificate (optional) - thirty (30) dollars.

(2) An applicant for licensure who takes or retakes the licensure examination shall pay:

(a) The current examination fee required by the national council of state boards of nursing; and

(b) Application for licensure and retake fees pursuant to Section 1 of this administrative regulation and subsections (1) and (5) of this section.

(3) A nurse shall pay the current examination fee required by the national council of state boards of nursing, and the fees established by the board for application for licensure and retake, if the nurse:

(a) Is licensed in another state, United States territory, or country;

(b) Submits an application for licensure in Kentucky as a registered nurse, or a licensed practical nurse; and

(c) Is required to take or retake the licensure examination.

(4) Applicants retaking the licensure examination shall submit:

(a) The fee for retake prior to each time examination is taken; and

(b) A new application and current fees if more than one (1) year has passed since the date the applicant was declared eligible to take the examination initially.

(5) A graduate of a foreign school of nursing shall be responsible for:

(a) Costs incurred to submit credentials translated into English;

(b) Commission on graduates of foreign nursing schools certificates;

(c) Immigration documents; and

(d) Other documents needed to verify that the graduate has met Kentucky licensure requirements.

Section 4. Except as provided by Section 3(5)(b) of this administrative regulation, an application which is not completed within one (1) year from the date the application form is filed with the board office shall lapse and the fee shall be forfeited.

Section 5. An applicant who meets all requirements for approval, licensure, or registration shall be issued the appropriate approval, license, or registration without additional fee.

Section 6. Refunds. Overpayment of five (5) dollars or more of current fee shall be refunded.

Section 7. A partial application fee may be held on record for one (1) year and shall be applied toward the fee to meet the requirements for licensure or registration.

Section 8. Fees properly collected by the board shall not be refunded, except as provided in Section 6 of this administrative regulation.

Section 9. Fees for Sexual Assault Nurse Examiners. (1) The application fee shall be fifty (50) dollars.

(2) The credential renewal fee shall be forty (40) dollars.

(3) The credential reinstatement fee shall be fifty (50) dollars.

LINDA J. THOMAS, President

APPROVED BY AGENCY: July 1, 1997

FILED WITH LRC: July 8, 1997 at 1 p.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on August 25, 1997 at 9 a.m. (EDT) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 18, 1997, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 329-7000.

REGULATORY IMPACT ANALYSIS

Contact Person: Nathan Goldman, General Counsel

(1) Type and number of entities affected: All registered nurses and licensed practical nurses.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Certain fees are being increased.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: N/A

2. Second and subsequent years: N/A

(3) Effects on the promulgating administrative body: The amendment will provide necessary operational funds.

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: N/A

(b) Kentucky: N/A

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(8) Assessment of expected benefits: Identify effects on public health and environmental welfare of the geographical area in which

implemented and on Kentucky: The increase in fees will allow for the continued operation of the board. State whether a detrimental effect on environment and public health would result if not implemented: See above. If detrimental effect would result, explain detrimental effect: See above.

(9) Identify any statute, administrative regulation, or governmental policy which may be in conflict, overlapping or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not applicable.

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources (Amendment)

301 KAR 1:201. Fishing limits.

RELATES TO: KRS 150.470, 150.990(2)

STATUTORY AUTHORITY: KRS 150.025(1), 150.470

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes ~~requires~~ the department to promulgate administrative regulations to protect fish species from overharvest, allocate their harvest, maintain ecological balance and improve fishing. This administrative regulation establishes size, daily, and possession limits for fishing ~~and also repeals 301 KAR 1:100~~.

Section 1. Definitions. (1) "Artificial baits" means lures or flies made of wood, metal, plastic, feathers, preserved pork rind or similar inert materials and having no organic baits, such as insects, minnows, fish eggs, worms, corn, cheese, cut bait or a similar substance attached to the lure.

(2) "Daily limit" means the creel limit, the maximum number of a particular species or group of species a person may legally take in a day or have in possession while fishing.

(3) "Kentucky bass" means a largemouth bass, Kentucky bass or Coosa bass with a patch of teeth on its tongue.

(4) "Lake" means impounded waters from the dam upstream to the first riffle on:

(a) The main stem river; and

(b) Tributary streams.

(5) "Length" means the distance from the tip of a fish's lower jaw to the tip of its tail, measured with the fish laid flat on a rule and its tail lobes squeezed together.

(6) "Possession limit" means the maximum number of fish a person may hold in the field after two (2) or more days of fishing.

(7) "Release" means the return of the fish:

(a) In the best possible physical condition;

(b) Immediately after removing the hook;

(c) To the water from which it was taken; and

(d) In a place where the fish's immediate escape shall not be prevented.

(8) "Single hook" means a hook with no more than one (1) point.

(9) "Size limit" means the minimum legal length of a fish.

(10) "Slot limit" means protecting fish within a specified minimum and maximum size range.

Section 2. Statewide Size and Creel Limits. (1) Except as specified in Section 4 of this administrative regulation or ~~and~~ by 301 KAR 1:180, a person ~~persons~~ fishing in public or private waters shall observe the following daily possession and size limits.

(a) Black bass: daily limit, six (6); possession limit, twelve (12).

1. Largemouth bass, smallmouth bass or Coosa bass: size limit, twelve (12) inches.

2. Kentucky bass: no size limit.

(b) Rock bass: daily limit, fifteen (15); possession limit, thirty (30); no size limit.

(c) Walleye and their hybrids: daily limit, ten (10); possession limit, twenty (20); size limit, fifteen (15) inches.

(d) Sauger: daily limit, ten (10); possession limit, twenty (20); no size limit.

(e) Muskellunge: daily and possession limit, two (2); size limit, thirty (30) inches.

(f) Chain pickerel: daily limit, five (5); possession limit, ten (10); no size limit.

(g) White bass and yellow bass, singly or in combination: daily limit, thirty (30); possession limit, sixty (60); no size limit.

(h) Striped bass and their hybrids: daily and possession limit, five (5); size limit, fifteen (15) inches.

(i) Crappie: daily limit, thirty (30); possession limit, sixty (60); no size limit.

(j) Rainbow trout and brown trout, singly or in combination: daily and possession limit, eight (8), no more than three (3) of which shall be brown trout; no size limit.

(k) Brook trout: daily and possession limit, two (2); size limit, ten (10) inches.

(2) A person shall release grass carp caught from a lake owned or managed by the department.

(3) A person shall release fish:

(a) Below the minimum size limits established by this administrative regulation;

(b) Within a protected slot limit ~~as~~ established by this administrative regulation; or

(c) Of a particular species, when a person has in his possession the daily limit for that species ~~as~~ established by this administrative regulation.

(4) A person shall not remove any part of the head or tail of a ~~any~~ fish for which there is a size or creel limit until he has completed fishing for the day and has left the water.

(5) A person who wishes to possess sport fish below the size limit or beyond the possession limit shall:

(a) Obtain the fish from a licensed fish propagator or other legal source; and

(b) Retain a receipt or other written proof that the fish were legally acquired.

(6) A person shall release trout unless he:

(a) Has a valid trout permit;

(b) Is exempted from trout stamp requirements by KRS 150.170(3); or

(c) Is fishing in a licensed pay lake stocked with trout by the lake operator.

Section 3. Fishing Season. The fishing season shall be open year round.

Section 4. Exceptions to Statewide Administrative Regulations. A person fishing in the waters listed in this section shall observe the following special requirements. Except as specified in this section, all other provisions of this administrative regulation shall apply to these bodies of water.

(1) Bad Branch, Letcher County: artificial baits with single hooks only shall be used.

(2) Barkley Lake.

(a) Largemouth bass and smallmouth bass:

~~1. Through February 28, 1997, size limit fourteen (14) inches, except that the daily limit may contain one (1) and the possession limit two (2) bass under fourteen (14) inches.~~

~~2. After February 28, 1997, size limit [limite], fifteen (15) inches.~~

(b) Crappie: size limit, ten (10) inches.

(c) Sauger: size limit, fourteen (14) inches.

(3) Barren River Lake, including:

(a) Barren River to the Highway 100 bridge;

(b) Long Creek to the Highway 100 bridge;

(c) Beaver Creek to the Highway 1297 bridge;

(d) Skaggs Creek to the Mathews Mill Road bridge; and

(e) Peter Creek to the Peter Creek Road bridge;

~~1. [and the Barren River upstream from Barren River Lake.~~

~~(a) White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily limit, twenty (20); possession limit, forty (40); size limit, no more than five (5) fish in a daily limit or ten (10) fish in a possession limit shall be fifteen (15) inches or longer.~~

~~2. [(b)] Crappie: size limit, nine (9) inches.~~

~~3. [(c)] Largemouth bass and smallmouth bass: size limit, fifteen (15) inches. Daily limit may include no more than one (1) and the possession limit no more than two (2) fish less than fifteen (15) inches.~~

(4) Bert Combs Lake: a person shall not possess shad or use shad for bait.

(5) Boltz Lake: a person shall not possess shad or use shad for bait.

(6) Briggs Lake: a person shall not possess shad or use shad for bait.

(7) Buckhorn Lake: largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

(8) Carpenter Lake: a person shall not possess shad or use shad for bait.

(9) Carr Fork Lake.

(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

(b) Crappie: size limit, nine (9) inches.

(10) Carter Caves Lake.

(a) Fishing shall be during daylight hours only.

(b) Largemouth bass: daily and possession limit, one (1) fish; size limit through February 28, 1998, twenty (20) inches; after February 28, 1998, fifteen (15) inches.

(c) A person shall not possess shad or use shad for bait.

(11) Cave Run Lake: largemouth bass and smallmouth bass: slot limit - a person may keep fish less than thirteen (13) or greater than sixteen (16) inches and shall release fish between thirteen (13) and sixteen (16) inches.

(12) Corinth Lake: a person shall not possess shad or use shad for bait.

(13) Cumberland Lake.

(a) Largemouth and smallmouth bass: size limit fifteen (15) inches.

(b) Striped bass: size limit, twenty-four (24) inches; daily and possession limit, two (2) fish.

(c) Crappie: size limit, ten (10) inches.

(14) Cumberland River downstream from Barkley Lake Dam.

(a) Striped bass: daily and possession limit, three (3).

(b) Sauger: size limit, fourteen (14) inches.

(15) Cumberland River[-

~~(a) Through February 28, 1997, downstream from the Highway 61 bridge. Trout: slot limit - a person shall release trout between twelve (12) and twenty (20) inches.~~

~~(b) After February 28, 1997, from Wolfe Creek Dam downstream to the Kentucky-Tennessee state line. Brown trout: size limit, twenty (20) inches; creel limit, one (1).~~

(16) Cyprus AMAX and Robinson Forest Wildlife Management Areas.

~~[(a) Through February 28, 1997:~~

~~1. On Starfire Lake:~~

~~a. Largemouth bass: size limit, twenty (20) inches; daily and possession limit, one (1).~~

~~b. Sunfish: daily and possession limit ten (10).~~

~~c. Channel catfish: size limit, fifteen (15) inches; daily and possession limit, four (4).~~

~~2. On impounded waters of the area, persons shall not fish:~~

~~a. Except during daylight hours.~~

- b. ~~From January 1 through June 30.~~
~~(b) After February 28, 1997:~~
 4.] On impounded waters of the area:
 (a) ~~(a-)~~ Largemouth bass: size limit, fifteen (15) inches; daily and possession limit, one (1);
 (b) ~~(b-)~~ Sunfish: daily and possession limit, ten (10);
 (c) ~~(c-)~~ Channel catfish: size limit, fifteen (15) inches; daily and possession limit, four (4).
(d) A person [2. Persons] shall not fish:
1. Except during daylight hours; or
2. On Starfire Lake between January 1 and May 31.
 (17) Dale Hollow Lake.
 (a) Smallmouth bass: daily limit, two (2); size limit, eighteen (18) inches.
 (b) Walleye and their hybrids: daily limit, ten (10); size limit, sixteen (16) inches.
 (c) Sauger: daily limit, ten (10); size limit, fourteen (14) inches.
 (d) Muskellunge: daily limit, one (1).
 (e) Rainbow trout and lake trout.
 1. Daily limit, April 1 - October 31: seven (7), no more than two (2) of which may be lake trout. No size limit.
 2. Daily limit, November 1 - March 31: two (2); size limit, twenty-two (22) inches.
 (18) Dewey Lake.
 (a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
 (b) White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5); size limit, fifteen (15) inches.
 (19) Dix River for two (2) miles downstream from Herrington Lake Dam.
 (a) Artificial baits only.
 (b) Brown trout: size limit, fifteen (15) inches.
 (20) Dix River upstream from Herrington Lake. White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily limit, twenty (20); possession limit, forty (40); size limit: no more than five (5) in a daily limit or ten (10) fish in a possession limit shall be fifteen (15) inches or longer.
 (21) Elkhorn Creek downstream from the confluence of the North and South forks. Largemouth bass and smallmouth bass: slot limit - a person shall release fish between twelve (12) and sixteen (16) inches. The daily limit shall not include more than two (2) fish greater than sixteen (16) inches long.
 (22) Elmer Davis Lake.
 (a) Largemouth bass: slot limit - a person shall release fish between twelve (12) and sixteen (16) inches.
 (b) A person [Persons] shall not possess shad or use shad for bait.
 (23) Fishtrap Lake.
 (a) Largemouth bass or smallmouth bass: size limit, fifteen (15) inches.
 (b) White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5); size limit, fifteen (15) inches.
 (24)(a) A person shall not possess shad or use shad for bait.
 (b) Upper Game Farm Lake:
 1. Largemouth bass and smallmouth bass: daily limit, two (2); size limit, fifteen (15) inches.
 2. Channel catfish: daily limit, three (3).
 (c) Lower Game Farm Lake:
 1. A person [Through February 28, 1997, size and daily limits shall be the same as the Upper Game Farm Lake.
2. After February 28, 1997:
a. Persons] thirteen (13) years or older shall not fish.
2. [b-] Daily limit, three (3) fish regardless of species.
 (25) Grayson Lake. Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
 (26) Greenbo Lake. A person shall not possess shad or use shad for bait.
 (27) Green River Lake. Crappie: size limit, nine (9) inches.
 (28) Guist Creek Lake. White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5); size limit, fifteen (15) inches.
 (29) Herrington Lake. White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily limit, twenty (20); possession limit, forty (40); size limit: no more than five (5) in a daily limit or ten (10) fish in a possession limit shall be fifteen (15) inches long or longer.
 (30) Kentucky Lake and the canal connecting Kentucky and Barkley lakes.
 (a) Largemouth bass and smallmouth bass:
~~[1. Through February 28, 1997, size limit fourteen (14) inches, except that the daily limit may contain one (1) and the possession limit two (2) bass under fourteen (14) inches.~~
2. After February 28, 1997,] size limit, fifteen (15) inches.
 (b) Crappie: size limit, ten (10) inches.
 (c) Sauger: size limit, fourteen (14) inches.
 (31) Laurel Lake. ~~[After February 28, 1997,]~~ Largemouth bass and smallmouth bass, size limit, fifteen (15) inches.
 (32) Lebanon City Lake.
 (a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
 (b) Crappie: size limit, nine (9) inches; daily limit, fifteen (15).
 (c) Bluegill and shellcrackers (singly or in aggregate): creel limit, thirty (30).
 (d) Channel catfish: creel limit, five (5).
 (33) Leary Lake.
 (a) Fishing shall be during daylight hours only.
 (b) Largemouth bass: daily limit, one (1); size limit, fifteen (15) inches.
 (c) Bluegill: daily limit, twelve (12).
 (d) Channel catfish: daily limit, two (2).
 (34) Lincoln Homestead Lake.
 (a) Fishing shall be during daylight hours only.
 (b) Largemouth bass: daily limit, three (3); size limit, fifteen (15) inches.
 (c) Bluegill and red-ear sunfish: daily limit, ten (10) fish over seven (7) inches, singly or in combination; no limit on fish less than seven (7) inches.
 (d) Channel catfish: daily limit, three (3).
 (e) A person shall not possess shad or use shad for bait.
 (35) Lake Malone. Largemouth bass: slot limit - a person may keep fish less than twelve (12) or greater than fifteen (15) inches and shall release fish between twelve (12) and fifteen (15) inches.
 (36) Marion County Lake.
 (a) Largemouth bass: size limit, fifteen (15) inches.
 (b) A person shall not possess shad or use shad for bait.
 (37) Martins Fork and its tributaries in Harlan County from the Left Fork upstream two and three-tenths (2.3) miles to the Cumberland Gap National Park boundary. Artificial baits with single hooks only shall be used.
 (38) Mauzy Lake. Largemouth bass; no size limit.
 (39) McNeely Lake. A person shall not possess shad or use shad for bait.
 (40) Mill Creek Lake. A person shall not possess shad or use shad for bait.
 (41) Nolin River Lake.
 (a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches except that the daily limit may contain one (1) and the possession limit two (2) bass under fifteen (15) inches.
 (b) Crappie: size limit, nine (9) inches.
 (42) Ohio River.
 (a) Walleye, sauger and their hybrids: no size limit; daily limit, ten (10) fish, singly or in combination.

(b) White bass, yellow bass, striped bass and their hybrids: daily limit, thirty (30); no more than four (4) in a daily limit may be fifteen (15) inches long or longer.

(43) Paintsville Lake. Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

(44) Parched Corn Creek, Wolfe County. Artificial baits with single hooks shall be used.

(45) Peabody Wildlife Management Area (Goose Lake, Island Lake or South Lake):

(a) Largemouth bass: size limit, twenty (20) inches; daily and possession limit, one (1).

(b) Bluegill: daily and possession limit, fifteen (15).

(c) Redbreast sunfish: daily and possession limit, fifteen (15).

(d) Channel catfish: size limit, fifteen (15) inches; daily and possession limit, two (2).

(e) Walleye: size limit, fifteen (15) inches; daily and possession limit, one (1).

(f) Crappie: daily and possession limit, ten (10).

(g) A person shall not fish:

1. Except during daylight hours;

2. Through February 28, 1998, from October 16 through June 30 on South Lake or Island Lake, and, until February 28, 1997, on Goose Lake;

3. Through February 28, 1998, [After February 28, 1997,] from October 16 through the last day of February on Goose Lake.

4. After February 28, 1998, from October 15 through March 15 on Goose Lake, South Lake or Island Lake.

(h) A person shall not take [gig] frogs.

(46) Poor Fork and its tributaries in Letcher County downstream to the first crossing of Highway 392. Artificial baits with single hooks only.

(47) Lake Reba.

(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

(b) A person [Persons] shall not possess shad or use shad for bait.

(48) Rough River Lake.

(a) Crappie: size limit, nine (9) inches.

(b) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches, except that the daily limit may contain one (1) and the possession limit two (2) bass under fifteen (15) inches.

(c) White bass: for size and creel limit purposes anglers shall consider fish of the Morone family with an unseparated, U-shaped rear tooth patch on the tongue to be white bass.

(d) Hybrid striped bass: for size and creel limit purposes anglers shall consider fish of the Morone family with a separated rear tooth patch on the tongue to be hybrid striped bass.

(49) Shanty Hollow Lake.

(a) Largemouth bass: size limit, fifteen (15) inches.

(b) A person shall not possess shad or use shad for bait.

(50) Shillalah Creek, Bell County, outside the Cumberland Gap National Park. Artificial baits with single hooks shall be used.

(51) Spurlington Lake. A person shall not possess shad or use shad for bait.

(52) Sympson Lake: [after February 28, 1997,] Largemouth bass: size limit, fifteen (15) inches.

(53) Taylorsville Lake.

(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

(b) Crappie: daily limit, fifteen (15); possession limit, thirty (30); [after February 28, 1997,] size limits, nine (9) inches.

(c) White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5); size limit, fifteen (15) inches.

(54) Tennessee River downstream from Kentucky Lake Dam.

(a) Striped bass: daily and possession limit, three (3).

(b) Sauger: size limit, fourteen (14) inches.

(55) Yatesville Lake. Largemouth bass and smallmouth bass; size limit, fifteen (15) inches.

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

MIKE BOATWRIGHT, Chairman

APPROVED BY AGENCY: June 13, 1997

FILED WITH LRC: July 15, 1997 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 28, 1997 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by August 21, 1997, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: John Wilson, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4406, FAX (502) 564-6508.

REGULATORY IMPACT ANALYSIS

Contact Person: John Wilson

(1) Type and number of entities affected: Approximately one million anglers fish Kentucky waters each year. Only a fraction of those will be affected by the provisions of the amendments to this administrative regulation.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments received. This amendment to an existing administrative regulation should have no impact on costs of living or employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments received. This amendment to an existing administrative regulation should have no impact on costs of doing business.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: This amendment to an existing administrative regulation will not affect compliance, reporting or paperwork requirements.

2. Second and subsequent years: Same as for first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This amendment to an existing administrative regulation will create no additional direct or indirect costs or savings.

2. Continuing costs or savings: Same as for first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: To the extent that this administrative regulation improves fishing, the sale of fishing licenses and local tourist revenue could be positively impacted.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fish and Game Fund.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising

from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No comments received. This amendment to an existing administrative regulation should have no negative impact, and may have some positive impact in the geographical areas where implemented.

(b) Kentucky: This amendment to an existing administrative regulation should have no negative impact, and may have some positive impact on Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: At every body of water affected by the amendment to this administrative regulation, the alternative chosen was considered the most viable means of protecting fishery resources while allowing optimum angling opportunity for the species involved.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will allow outdoor recreation while protecting the ecological balance of Kentucky's waters.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: Fishing size and creel limits prevent overfishing and population imbalances between predator and prey species. Without the size and creel limits imposed by this administrative regulation, both the recreational fishery and ecological balance in Kentucky's waters would suffer.

(9) Identify and statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering was used to the extent that specific regulations are applied to different bodies of water in an effort to create maximum recreational fishing opportunities while maintaining adequate fish populations and favorable environmental conditions. In other instances, tiering is not appropriate because the administrative regulation applies equally to all individuals or entities it regulates. Disparate treatment of any persons of entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U. S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

JUSTICE CABINET
Department of Corrections
Division of Adult Institutions
(Amendment)

501 KAR 6:110. Roederer Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the Justice Cabinet and Department of Corrections [commissioner] to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

Section 1. Incorporation by Reference. (1)(a) Roederer Correc-

tional Complex policies and procedures, July 11, 1997 [~~November 14, 1995~~], are incorporated by reference.

(2) They may be inspected, copied, or obtained at the Office of the General Counsel, Department of Corrections, State Office Building, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(2) Roederer Correctional Complex policies and procedures include:

RCC 01-06-01	Inmate Access to and Communication with RCC Staff
RCC 01-08-01	Public Information and News Media Access [(Amended 11/14/95)]
RCC 01-10-01	RCC Cooperation with Outside Bodies Including Courts, Governmental Legislative, Executive, and Community Agencies
RCC 02-01-01	Fiscal Management: Organization (<u>Amended 7/11/97</u>)
RCC 02-01-02	Fiscal Management: Accounting Procedures
RCC 02-01-03	Fiscal Management: Agency Funds
RCC 02-01-04	Fiscal Management: Insurance
RCC 02-02-01	Fiscal Management: Budget
RCC 02-02-02	Inmate Control of Personal Funds (<u>Amended 7/11/97</u>)
RCC 02-02-03	Storage and Disposition of Monies received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays (<u>Amended 7/11/97</u>)
RCC 02-02-05	Inmate Canteen Services (<u>Amended 7/11/97</u>)
RCC 02-03-01	Fiscal Management: Audits (<u>Amended 7/11/97</u>)
RCC 02-04-01	Purchase Orders (<u>Amended 7/11/97</u>)
RCC 02-04-02	Processing of Invoices [(Amended 11/14/95)]
RCC 02-06-01	Property Inventory
RCC 04-01-01	Employee Training and Development
RCC 04-01-02	First Aid and CPR Training
RCC 06-01-01	Offender Records [(Amended 11/14/95)]
RCC 06-03-01	Records Release of Information
RCC 06-03-02	Storage of Expunged Records
RCC 06-03-04	Access to Psychological and Psychiatric Reports
RCC 06-04-01	Court Trips (<u>Amended 7/11/97</u>) [(Amended 11/14/95)]
RCC 06-04-02	Receipt of Order of Appearance [(Amended 11/14/95)]
RCC 08-01-01	Fire Prevention (<u>Amended 7/11/97</u>)
RCC 08-08-01	Control and Use of Flammable, Toxic, and Caustic Materials (<u>Amended 7/11/97</u>)
RCC 09-04-03	Duties and Responsibilities of the Fire Safety Officer
RCC 09-06-01	Search Policy/Disposition of Contraband
RCC 11-01-01	Food Services: General Guidelines (<u>Amended 7/11/97</u>)
RCC 11-02-01	Food Service: Security (<u>Amended 7/11/97</u>) [(Amended 11/14/95)]
RCC 11-03-01	Dining Room Guidelines (<u>Amended 7/11/97</u>)
RCC 11-04-01	Food Service: Meals
RCC 11-04-02	Food Service: Menu, Nutrition and Special Diets
RCC 11-05-02	Health Requirements of Food Handlers [(Amended 11/14/95)]
RCC 11-06-01	Food Service: Inspections and Sanitation (<u>Amended 7/11/97</u>)
RCC 11-07-01	Food Service: Purchasing, Storage and Farm Products
RCC 12-01-01	Sanitation, Living Conditions Standards, Clothing Issues [(Amended 11/14/95)]
RCC 12-01-02	Bed Areas [(Amended 11/14/95)]
RCC 12-01-03	General Guidelines for Living Units
RCC 12-02-01	Issuance of Clean Laundry and Receiving of Dirty Laundry

ADMINISTRATIVE REGISTER - 397

RCC 12-03-01 Personal Hygiene Items: Issuance and Placement Schedule [~~(Amended 11/14/95)~~]
RCC 12-03-02 Barber Shop Services and Equipment Control [~~(Amended 11/14/95)~~]
RCC 12-04-01 Institutional Inspections
RCC 12-05-02 Use of Noncombustible Receptacle
RCC 12-06-01 Insect and Vermin Control [~~(Amended 11/14/95)~~]
RCC 13-01-01 Organization of Health Services
RCC 13-02-01 Health Maintenance Services: Sick Call and Pill Call (Amended 7/11/97)
RCC 13-03-01 Dental Procedures and Sick Call
RCC 13-04-01 Preliminary Health Evaluation and Establishment of Inmate Medical
RCC 13-04-02 Medical Intake Processing for Inmates in Hold Status (Added 7/11/97)
RCC 13-05-02 Licensure and Training Standards for Medical Department (Amended 7/11/97)
RCC 13-06-01 Suicide Prevention and Intervention Program [~~(Amended 11/14/95)~~]
RCC 13-06-03 Emergency Medical and Dental Care Services (Amended 7/11/97) [~~(Amended 11/14/95)~~]
~~[RCC 13-06-04 First Aid/CPR Training Program (Deleted 7/11/97)]~~
RCC 13-07-01 Health Records
RCC 13-07-03 Use of Pharmaceutical Products (Amended 7/11/97)
RCC 13-07-04 Self-administered Medication Program
RCC 13-09-01 Notification of Inmate Family in the Event of Serious Illness, Surgery, or Inmate Death
RCC 13-10-01 Health Education and [f] Special Health Programs (Amended 7/11/97)
RCC 13-11-01 Informed Consent
RCC 13-12-01 Mental Health/Provision of Psychiatric Services by KCPC
RCC 13-12-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center
RCC 13-13-01 Identification of Special Needs Inmates
RCC 13-15-01 Medical Restraints
RCC 13-16-01 Specialized Health Services
RCC 13-17-01 Vision Care and Optometry Services
RCC 13-18-01 Infection Control
RCC 14-01-01 Inmate Rights and Responsibilities (Amended 7/11/97)
RCC 16-01-01 Inmate Visiting
RCC 16-01-03 Extended and Special Visits (Amended 7/11/97)
RCC 16-02-01 Telephone Communications
RCC 16-03-01 Mail Regulations
RCC 17-01-01 Assessment/Orientation Procedure for Intrasystem Transfers
RCC 17-03-01 Inmate Personal Property and Property Control (Amended 7/11/97)
RCC 17-05-02 Housing Unit Assignment Assessment/Classification Center
RCC 17-05-03 Notifying Inmate's Families of Admission and Procedures for Mail and Visiting
RCC 17-05-04 Assessment Center Operations Rules and Regulations
RCC 17-05-05 Assessment Center Operations and Reception Programs
RCC 18-01-01 Institutional Classification Committee
RCC 19-01-01 Job Assignments
RCC 20-01-01 Academic Education Program (Amended 7/11/97) [~~(Amended 11/14/95)~~]
RCC 20-01-03 Vocational Horticulture Program
RCC 21-01-01 Library Services (Amended 7/11/97)
RCC 22-01-01 Recreation and Inmate Activities (Amended 7/11/97)
RCC 22-03-01 Inmate Clubs and Organizations (Amended

7/11/97)
RCC 23-01-01 Religious Services (Amended 7/11/97)
RCC 24-01-01 Social Services and Counseling [~~Program~~] (Amended 7/11/97)
RCC 25-04-02 Parole Eligibility Dates (Amended 7/11/97)
RCC 25-05-01 Inmate Discharge Procedures (Amended 7/11/97)

DOUG SAPP, Commissioner

APPROVED BY AGENCY: July 8, 1997

FILED WITH LRC: July 11, 1997 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 1997 at 9 a.m. in the Fifth Floor Conference Room of the State Office Building. Individuals interested in being heard at this hearing shall notify this agency in writing by August 14, 1997, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, telephone number (502) 564-2024, facsimile number (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Tamela Biggs

(1) Type and number of entities affected: 171 employees of the correctional institutions, 657 inmates, and all visitors to state correctional institutions.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Policy revisions.

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation is the funds budgeted for this 1996-1998 biennium.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: N/A

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed administrative regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Vehicle Licensing
Department of Fiscal Management
Division of Audit Review
(Amendment)

601 KAR 9:135. Apportioned registration.

RELATES TO: KRS 186.020, 186.050, 49 USC Chapter 317 [Chapter 186]

STATUTORY AUTHORITY: KRS 186.050(13)

NECESSITY, FUNCTION, AND CONFORMITY: 49 USC Chapter 317 requires each state to participate in the International Registration Plan. KRS 186.050(13) requires the Transportation Cabinet to promulgate administrative regulations concerning the registration of commercial motor vehicles under the Articles of the International Registration Plan. This administrative regulation sets forth the procedures to be followed in registering a commercial motor vehicle under the provisions of the International Registration Plan. It further clarifies when a vehicle licensed under the provisions of KRS 186.050(13) shall be deemed to be licensed under the provisions of other sections of KRS 186.050. The administrative regulation provides for the recordkeeping standards required for apportionable vehicles, auditing of the records by the Transportation Cabinet, and the appeal procedure when a disagreement occurs. There are no requirements in this administrative regulation which are more stringent than the federal mandate.

Section 1. Definitions. (1) ~~["Fleet" shall mean one (1) or more apportionable vehicles;~~

(2) "Apportionable vehicle" means ~~[shall mean]~~ any vehicle except recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, and government owned vehicles, used or intended for use in two (2) or more jurisdictions that allocate or proportionally register vehicles and is used for the transportation of persons for hire or designed, used or maintained primarily for the transportation of property; and

(a) Is a power unit having a gross weight or registered gross weight in excess of 26,000 pounds; or

(b) Is a power unit having three (3) or more axles, regardless of weight; or

(c) Is used in combination and the weight of the combination exceeds 26,000 pounds gross vehicle weight.

(2) "Base jurisdiction" means the state where:

(a) The registrant has an established place of business;

(b) Mileage is accrued by the registrant's fleet; and

(c) Operational records of the fleet are maintained or can be made available for audit.

(3) "Established place of business" means a physical structure:

(a) Owned, leased, or rented by the fleet registrant;

(b) Designated by a street number or road location;

(c) Open during normal business hours;

(d) In which is located:

1. A telephone publicly listed in the name of the registrant;

2. A person conducting the fleet registrant's business; and

3. The operational records of the fleet or where the records are made available for audit.

(4) "Fleet" means one (1) or more apportionable vehicles;

(5) "International registration plan" or "IRP" means the interstate agreement on apportioning vehicle registration fees paid by motor carriers which was developed by the American Association of Motor Vehicle Administrators.

(6) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or a state, province, or territory of a country.

(7) "Operational records" means source documents supporting miles traveled in each jurisdiction and total miles traveled such as fuel reports, trip sheets, and logs.

Section 2. Governing Material. (1) The "International Registration Plan, With Official Commentary" effective September 17, 1996 and issued by the International Registration Plan, Inc. shall govern Kentucky's participation in IRP.

(2) The "Uniform Operation Audit Procedure Guidelines" effective March 1, 1993 and issued by the Audit Committee of the International Registration Plan, Inc. shall govern the recordkeeping requirements of registrants and the Kentucky Transportation Cabinet's audit responsibilities under the IRP.

(3) The "Kentucky 1997 International Registration Plan, Apportioned Registration Policies and Procedures Instructional Manual" effective January 1, 1997 and issued by the Transportation Cabinet shall be followed by all operators or owners of apportionable vehicles whose base jurisdiction is Kentucky.

Section 3. ~~[Section 2-]~~ Application for Apportioned Registration.

(1) ~~The operator of an apportionable vehicle [A commercial vehicle operator] who operates in more than one (1) licensing jurisdiction shall [may] apply for apportioned [proportional] registration of his fleet in those jurisdictions in which he operates and which are members of the International Registration Plan unless he purchases a trip permit from a jurisdiction for each trip into the jurisdiction.~~

(2) Vehicles, or combinations of power unit and trailers, having a gross vehicle weight of 26,000 pounds or less and two (2) axle vehicles may be apportioned registered at the option of the registrant.

(3) ~~If Kentucky is the base jurisdiction for an [the] operator of an apportionable vehicle [is based in Kentucky], he shall apply for his apportioned registration in Kentucky.~~

~~[(2) The registration year is from April 1 of each year through the following March 31. An applicant for proportional registration of a fleet or other vehicle to be effective April 1 shall submit his application prior to March 1 of the same calendar year. The application shall be made on forms prescribed and furnished by the Department of Vehicle Regulation. This form, TC 96-301, IRP Apportioned Registration, Schedule A, effective August, 1991, is incorporated by reference as a part of this administrative regulation.~~

~~(3) The form, TC 96-301, may be obtained from the Transportation Cabinet's Division of Motor Vehicle Licensing, Second Floor State Office Building, 601 High Street, Frankfort, Kentucky 40622 from 8 a.m. until 4:30 p.m., local prevailing time, on regular work days of state government.]~~

Section 4. ~~[3-]~~ Apportioned Mileage Reporting and Recordkeeping. (1)(a) The fleet miles required to be reported on the application

for apportioned ~~[proportional]~~ registration shall be the fleet miles traveled from July 1 through June 30 of the year immediately preceding the registration year.

(b) The mileage shall be distributed by jurisdiction. For each jurisdiction, whether or not a member of the International Registration Plan, all miles traveled in that jurisdiction by any apportioned power unit, whether the vehicle is empty or loaded, shall be reported.

(c) The mileage to be reported for any motor vehicle power unit which was added to or deleted from the apportioned fleet during the mileage reporting period shall be only those miles generated while it was part of the apportioned fleet.

(d) Mileage shall include the following:

1. Loaded and unladen trips;
2. Intrastate and interstate trips; and
3. Miles operated under trip permits.

(2) Apportioned registrants shall maintain operational records for the current registration year and the three (3) registration years immediately prior to the current year. ~~[Operational records shall be documents supporting the reported miles traveled in each jurisdiction and the total miles traveled.]~~ The information shall be retained in an individual vehicle mileage record. The individual vehicle mileage record shall contain at a minimum the following information:

- (a) Registrant's name and fleet number;
- (b) Beginning and ending date of trip;
- (c) Trip origin and destination;
- (d) Route of travel for trip;
- (e) Beginning and ending odometer or hubometer reading of each trip;
- (f) Total trip miles and mileage;
- (g) Mileage by jurisdiction for each trip;
- (h) Vehicle unit number and vehicle identification number; and
- (i) Driver's name or signature.

Section 5. ~~[4.]~~ Proof of Insurance and Certificate of Apportioned Registration. (1) The applicant shall apply to the appropriate county clerk for a certificate of apportioned registration for each vehicle in the fleet and any other vehicle to be apportioned registered.

(2) The county clerk's fee for the issuance of the certificate shall be two (2) dollars for each vehicle.

(3) The applicant shall submit proof of insurance to the county clerk at the time he applies for the certificate of apportioned registration.

Section 6. ~~[5.]~~ Registration Fees. (1)(a) The applicant shall submit the application for apportioned ~~[proportional]~~ registration to the Department of Vehicle Regulation for approval. This submission may either be in person or by mail.

(b) Original and renewal application shall be made on Transportation Cabinet form TC 96-301, IRP Apportioned Registration, effective October 1995.

(c) After the Department of Vehicle Regulation has approved an application, the department shall compute the apportioned ~~[proportional]~~ registration fee due each jurisdiction under the International Registration Plan.

(d) The applicant shall be given a bill for registration in all jurisdictions which do not bill the applicant directly.

(e) The applicant shall return to the department, either in person or by mail, the bill and a certified check, cashier's check, or money order made payable to the Kentucky State Treasurer ~~[to the department]~~. ~~[In order to receive apportioned registration plates prior to April 1 of the registration year, the applicant shall submit the required fee prior to March 10.]~~

(2) The required tax and fee shall be accompanied by proof of payment of the federal heavy vehicle use tax in accordance with the provisions of 601 KAR 9:115.

(3)(a) The Department of Vehicle Regulation shall issue ~~[send]~~ an IRP apportioned license plate, and IRP cab card to the registrant for

each vehicle registered under the provisions of the International Registration Plan.

(b) The originally issued IRP license plate shall have decals, indicating the expiration month and year.

(c) After renewal each year, the registrant shall be issued a new decal designating the year of expiration and a new IRP cab card.

(d) The IRP cab card shall list those jurisdictions to which the registrant has apportioned his registration fees and any other information required by the International Registration Plan.

(e) The original IRP cab card shall be carried in the cab of the vehicle at all times.

Section 7. ~~[6.]~~ Supplemental Applications. (1) If an applicant need to add to or delete vehicles from its fleet, the department shall be notified on a supplemental application form TC 96-303, "Supplemental Kentucky Application for IRP Apportioned Registration" effective October 1995 ~~[prescribed and furnished by the department]~~. This form shall be used to provide notice of the following:

(a) A ~~[for any]~~ vehicle addition;

(b) A ~~[additions]~~ vehicle deletion;

(c) A ~~[deletions]~~ vehicle transfer; or

(d) A gross ~~[transfers or]~~ weight increase. ~~[increases. This form, TC 96-303, "Supplemental Kentucky Application for IRP Apportioned Registration" effective November, 1988, is incorporated by reference as a part of this administrative regulation.]~~

(2)(a) A vehicle deletion ~~[The form, TC 96-303, may be obtained from the Transportation Cabinet's Division of Motor Vehicle Licensing, Second Floor State Office Building, 501 High Street, Frankfort, Kentucky 40622 from 8 a.m. until 4:30 p.m., local prevailing time, on regular work days of state government.]~~

~~(3) Vehicle deletions~~ shall be accompanied by the apportioned registration plate and the certificate of apportioned registration.

(b) The registrant may, at the end of the registration month, apply for a refund of the taxes ~~[fees]~~ which apply to the unexpired months of the registration year.

(3)(a) ~~[4)]~~ If a vehicle is being added by a registrant at the same time he is deleting another vehicle with the same weight within the fleet, the Kentucky registration tax ~~[fee]~~ may be transferred from the deleted to the added vehicle.

(b) The Kentucky transfer fee shall be two (2) dollars.

(c) The registrant shall be notified of the transfer fee owed to other jurisdictions.

(4) ~~(5)]~~ If the declared gross weight of the vehicle is to be increased, the increased tax ~~[fee]~~ owed shall be prorated from the date the increased weight is allowed.

Section 8. ~~[7.]~~ Adding Jurisdictions to IRP Registrations. (1) If the operation of a registrant is being expanded to include an additional jurisdiction which participates in the International Registration Plan, the registrant may amend his mileage schedule to reflect an estimate of miles to be operated in the new jurisdiction.

(2) The mileage percentages for an added jurisdiction shall be computed as added on to the actual mileages earlier reported.

(3) Percentages approved on the original application shall not be changed during the registration year.

(4)(a) If ~~[When]~~ an additional jurisdiction is added during the registration year, all vehicles in the fleet shall be changed to reflect operation in the additional jurisdiction.

(b) The Department of Vehicle Regulation shall send replacement IRP cab cards to the registrant.

(c) Upon receipt of the new cab cards the registrant shall return the outdated IRP cab cards to the department.

Section 9. ~~[8.]~~ Conversion to Apportioned Registration. (1) If a vehicle is registered in Kentucky as a commercial or limited activity vehicle and the registrant intends to convert to an apportioned registration, the registrant shall first purchase an apportioned

ADMINISTRATIVE REGISTER - 400

registration from the appropriate county clerk.

(2) The current commercial or limited activity license plate shall be submitted to the Department of Vehicle Regulation with the application for apportioned registration.

(3)(a) The applicant shall be given credit for the remainder of the value of his current Kentucky registration.

(b) This credit shall be applied toward taxes or fees due other IRP jurisdictions and collected by Kentucky on the apportioned registration.

(4) All taxes and fees due other jurisdictions and any additional taxes or fee [fees] due to Kentucky shall be paid in accordance with Section 5 [4] of this administrative regulation before the apportioned credentials may be issued.

Section 10. [9-] Replacement of Credentials. (1) If the owner of a vehicle registered pursuant to KRS 186.050(13) loses his copy of a certificate of apportioned registration, he may obtain a duplicate from the Department of Vehicle Regulation by:

(a) Filing an affidavit upon [a] form TC 96-167, Affidavit for Replacement County/Affidavit for Nonexchange - County" furnished by the department; and

(b) Paying [he shall pay] to the department a fee of two (2) dollars. [The form, TC 96-167, "Affidavit for Replacement County/Affidavit for Nonexchange County" effective June, 1988, is incorporated by reference as a part of this administrative regulation.]

(2)(a) [The form, TC 96-167, may be obtained from the Transportation Cabinet's Division of Motor Vehicle Licensing, Second Floor State Office Building, 501 High Street, Frankfort, Kentucky 40622 from 8 a.m. until 4:30 p.m., local prevailing time, on regular work days of state government.]

(3) If the owner loses a registration plate issued him under the provisions of KRS 186.050(13), he shall report the plate as lost or stolen to his area state police post or local law enforcement agency.

(b) The enforcement agency shall report the loss in the nationwide computer system for the information of all enforcement agencies.

(3) [(4)] The owner of a lost registration plate shall file with the Department of Regulation the following:

(a) A form TC 96-167;

(b) An affidavit for replacement;

(c) His certificate of apportioned registration; and

(d) A three (3) dollar fee. [a two (2) dollar fee with the Department of Vehicle Regulation.]

(4) [(5)] The Department of Vehicle Regulation after review and acceptance of the completed forms shall issue the owner another certificate of apportioned registration and a plate which shall bear a different number from that of the lost plate. The original copy of the surrendered certificate of apportioned registration shall be maintained by the department.

(5) [(6)] The department shall forthwith cancel the registration corresponding to the number of the lost plate, and the cancellation shall be reported by the department to the Commissioner of the Department of State Police.

(6) Any person finding a lost registration plate shall deliver it to the Department of Vehicle Regulation or to any county clerk for forwarding it to the department.

Section 11. [40-] Apportioned Registration of Leased Vehicles. Apportioned [Proportional] registration of leased vehicles may be accomplished in one (1) of the following ways:

(1) The owner/lessor may be the registrant and the vehicle may be registered in the name of the owner/lessor. The allocation of registration fees shall be based on the operational records of the owner/lessor. The apportioned license plate and IRP cab card shall be the property of the lessor; or

(2) The lessee may be the registrant and the vehicle may be registered by the lessee in both the owner/lessor's name and that of

the lessee. The allocation of registration fees shall be based on the operational records of the lessee. The apportioned license plate and IRP cab card shall be the property of the lessee.

Section 12. [44-] Apportioned Registration of Trailers. (1) Under the International Registration Plan, trailers, semitrailers, and auxiliary axles are not required to be apportioned registered [apportionable vehicles]. However, a member jurisdiction may file an exception to the IRP. Kentucky registrants are only required to pay trailer registration taxes and fees to Kentucky and to those member jurisdictions which have filed an exception.

(2) Kentucky trailer credentials shall be obtained through the appropriate county clerk.

(3) If a [When] Kentucky trailer registration is [registrations have been] purchased, the registrant shall [registrants may] submit to the Department of Vehicle Regulation a list of all trailers apportioned registered.

(4) The fee for each IRP trailer cab card shall be two (2) dollars.

(5) After receiving the list of trailers and appropriate tax and fee, the department shall send the registrant the IRP cab cards.

(6) In order to receive the IRP cab card by the beginning date of the registrant's assigned [April 1 of the] registration year, the registrant shall submit the list at least one (1) month in advance of the beginning date [prior to March 1].

Section 13. [42-] Registration Equivalent. Registration of a motor vehicle under the provisions of KRS 186.050(13) and this administrative regulation shall be equivalent to registration of the motor vehicle under the provisions of KRS 186.050(3). All privileges afforded a motor vehicle in Kentucky when operating on KRS 186.050(3) registration shall be afforded a motor vehicle in Kentucky when operating on KRS 186.050(13) registration.

Section 14. Audit of Apportioned Registrants. (1) In accordance with the provisions of the International Registration Plan, the Transportation Cabinet, Division of Audit Review shall every five (5) years audit fifteen (15) percent of the apportioned registrants based in Kentucky.

(2) An audit shall be performed in accordance with the "Uniform Operational Audit Procedure Guidelines".

(3) The Division of Audit Review shall in writing notify the apportioned registrant of the date, time, and location of the audit. At least thirty (30) days' advance notice shall be given to the registrant.

(4) Failure of the registrant to make available records required to be kept by the registrant pursuant to Section 4 of this administrative regulation and requested for the audit may result in a penalty assessment of up to 100 percent of Kentucky's registration fees set forth in KRS 186.050 in addition to fees for all other apportioned jurisdictions included in the original application or cancellation of apportioned registration.

(5) If it is determined that the registrant's operational records are not located in Kentucky and it is necessary for the Transportation Cabinet's auditors to travel to where the records are maintained, the registrant shall pay the Transportation Cabinet for the travel expenses incurred by its auditors in accordance with the per diem and travel rates established in 200 KAR 2:006.

(6) If the audit is being conducted on site, the auditor shall conduct and document a preaudit conference with the registrant outlining the operation, audit procedures, records to be examined, sample period, and sampling procedures. The motor carrier and auditor shall determine at the preaudit conference who has the responsibility for the final acceptance of audit findings and who should be involved in the close-out conference.

(7) If the audit is being conducted on site, the auditor shall conduct and document a close-out conference with the registrant outlining preliminary findings to include applicable penalty and interest, recommendations, rights of appeal, and to whom the audit

ADMINISTRATIVE REGISTER - 401

report should be addressed.

(8) The Transportation Cabinet shall furnish the registrant a letter of audit findings and recap schedules. If requested, the cabinet shall supply any other work papers to the registrant.

(9) If an audit indicates that additional tax is owed, the Transportation Cabinet shall issue an audit supplemental tax statement.

(10) The registrant shall within forty-five (45) days of the date of the audit supplemental tax statement pay the supplemental tax or protest in writing to the Transportation Cabinet, Division of Audit Review.

Section 15. Protest or Appeal of Audit Results. (1) The registrant may within forty-five (45) days of the date of the audit findings, protest in writing to the Transportation Cabinet, Division of Audit Review any portion of the audit.

(2) If the registrant does not protest, the audit or the audit supplemental tax statement shall be final on the beginning of the 46th day.

(3)(a) If a registrant protests pursuant to this section, the protest shall include a supporting statement and documents which identify the specific adjustments requested or the portions of the audit being protested, and setting forth the reasons the protest is being made.

(b) If the supporting statement and documents are sufficient to cause the Transportation Cabinet to change the audit or audit supplemental tax statement, the registrant shall be notified of the change and the amended audit or amended audit supplemental tax statement shall become final.

(c) If the supporting statement and documents are not sufficient to cause the Transportation Cabinet to change the audit or audit supplemental tax statement exactly as requested by the registrant in its protest, the registrant shall be notified to attend an information gathering/protest conference with the Division of Audit Review. The information gathering/protest conference shall be scheduled to be held within thirty (30) days of the issuance of the written protest. It may be rescheduled only one (1) time by either party.

(d) Within twenty (20) days of the information gathering/protest conference the Transportation Cabinet shall issue the final audit or final audit supplemental tax statement.

(4) If the registrant desires, he may, within thirty (30) days of the date of the final audit or final audit supplemental tax statement appeal to the Kentucky Board of Tax Appeals pursuant to KRS 131.340.

Section 16. Protest or Appeal of Nonaudit IRP Issue. (1) If anyone is aggrieved by any action or decision of the Transportation Cabinet made pursuant to the provisions of this administrative regulation except the audit provisions set forth in Sections 14 and 15 of this administrative regulation, within ten (10) days of the decision, may protest to the Transportation Cabinet, Division of Motor Vehicle Licensing.

(2)(a) If a protest is made pursuant to this section, the protest shall include a supporting statement and documents which identify the specific adjustments requested or the action of the Transportation Cabinet being protested, and setting forth the reasons the protest is being made.

(b) If the supporting statement and documents are sufficient to cause the Transportation Cabinet to change its action or decision, the protestant shall be notified of the change.

(c) If the supporting statement and documents are not sufficient to cause the Transportation Cabinet to change its action or decision as requested by the protestant, the protestant shall be notified to attend an information gathering/protest conference with the Division of Motor Vehicle Licensing. The information gathering/protest conference shall be scheduled to be held within thirty (30) days of the issuance of the written protest. It may be rescheduled only one (1) time by either party.

(d) Within twenty (20) days of the information gathering/protest conference the Transportation Cabinet shall issue a final decision.

(3)(a) An appeal of any nontax action of the Transportation Cabinet resulting from its actions relating to this administrative regulation shall be in writing and directed to the Transportation Cabinet, Office of General Counsel, 10th Floor, State Office Building, 501 High Street, Frankfort, Kentucky 40622.

(b) An administrative hearing shall be conducted in accordance with the provisions of KRS Chapter 13B.

(4) If a protestant desires, he may, within thirty (30) days of the date of the final decision of the Transportation Cabinet appeal a tax issue to the Kentucky Board of Tax Appeals pursuant to KRS 131.340.

Section 17. Material Incorporated by Reference. (1) The following items are incorporated by reference as a part of this administrative regulation:

(a) Transportation Cabinet form TC 96-301, "IRP Apportioned Registration", effective October 1995;

(b) Transportation Cabinet form TC 96-303, "Supplemental Kentucky Application for IRP Apportioned Registration" effective October 1995;

(c) Transportation Cabinet form TC 96-167, "Affidavit for Replacement-County/Affidavit for NonExchange-County" effective April 1992;

(d) "Kentucky 1997 International Registration Plan, Apportioned Registration Policies and Procedures Instructional Manual" effective January 1, 1997 and issued by the Kentucky Transportation Cabinet;

(e) "Uniform Operational Audit Procedure Guidelines" effective March 1, 1993 and issued by the Audit Committee of the International Registration Plan, Inc; and

(f) "International Registration Plan, With Official Commentary" effective September 17, 1996 and issued by the International Registration Plan, Inc.

(2) The material incorporated by reference in subsection (1)(a), (b), (c) and (d) of this section may be viewed, copied, or obtained from the Department of Vehicle Regulation, Division of Motor Vehicle Licensing. The address is 501 High Street, Second Floor, State Office Building, Frankfort, Kentucky 40622. The telephone number is (502) 564-5301. The hours of operation are weekdays from 8 a.m. through 4:30 p.m. local prevailing time.

(3) The material incorporated by reference in subsection (1)(e) and (f) of this section may be viewed, copied, or obtained from the Department of Fiscal Management, Division of Audit Review. The address is Teton Trail, Frankfort, Kentucky 40622. The telephone number is (502) 564-6760. The hours of operation are weekdays from 8 a.m. through 4:30 p.m. local prevailing time.

RICHARD H. DETERS, General Counsel
ED LOGSDON, Commissioner/Department of Vehicle Regulation
GLENN MITCHELL, Commissioner/Department of Fiscal Management
JAMES C. CODELL III, Secretary

APPROVED BY AGENCY: June 12, 1997

FILED WITH LRC: July 11, 1997 at 9 a.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on August 29, 1997 at 1:30 p.m. local prevailing time in the Transportation Cabinet, 4th Floor Hearing Room, 501 High Street, State Office Building, Corner of High, Clinton and Holmes Streets, Frankfort, Kentucky 40622. Any person who intends to attend this meeting must in writing by August 22, 1997 so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by August 22, 1997. This request does not have to be in writing. If you do not wish to attend the public hearing, you may

ADMINISTRATIVE REGISTER - 402

submit written comments on the administrative regulation. If the hearing is held, written comments will be accepted until the close of the hearing. If the hearing is canceled written comments will only be accepted until the close of business on August 29, 1997. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra Pullen Davis, Staff Assistant, Transportation Cabinet, Office of General Counsel, 501 High Street, Frankfort, Kentucky 40622, (502) 564-7650, Fax: (502) 564-5238.

REGULATORY IMPACT ANALYSIS

Contact person: Sandra Pullen Davis

(1) Type and number of entities affected: All owners of vehicles with a gross weight above 26,000 pounds and which are to be operated in interstate commerce.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held. However, no effect on the cost of living or employment are anticipated.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held. However, no effect on the cost of living or employment are anticipated.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: The changes in the procedures manual allowing for staggered apportioned registration will spread the workload of the Apportion Registration Section of the Division of Motor Vehicle Licensing over several months of the year instead of concentrating most of the work in 6 weeks.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Transportation Cabinet will implement the administrative regulation with road funds allocated for the motor vehicle licensing function of the Department of Vehicle Regulation.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public comment hearing was not held. However, no economic impacts are anticipated.

(b) Kentucky: A public comment hearing was not held. However, no economic impacts are anticipated.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The Transportation Cabinet is required by federal law to participate in the International Registration Plan. Therefore, the changes adopted by that organization must also be adopted in Kentucky. The cabinet rejected the idea of not implementing a staggered registration because of the delay in registering the large number of apportioned vehicle owners who wait until the last moment to register their vehicles and pay the tax which is owed.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of

the geographical area in which implemented and on Kentucky: None
(b) State whether a detrimental effect on environment and public health would result if not implemented: No

(c) If detrimental effect would result, explain detrimental effect:

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 186.020(3) establishes April 1 as the renewal registration date for commercial vehicles. However, KRS 186.050(13)(a) requires the Department of Vehicle Regulation, notwithstanding the provisions of KRS 186.020, to promulgate administrative regulations concerning the registration of apportioned vehicles.

(a) Necessity of proposed regulation if in conflict: While the International Registration Plan does not mandate a staggered registration of apportioned motor vehicles, it does require the states to register the vehicles in a timely manner. The number of apportioned vehicle owners who put off registration renewal until the last days of the renewal period has increased as registration fees around the nation have increased (delay paying high taxes until the last possible moment). This has caused a backlog of work during March of each year. In recent years, the delays and backlog have been so great that the Transportation Cabinet had to address the issue.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: The conflict was negated by the "notwithstanding" clause in KRS 186.050(13).

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. Explain: All vehicles subject to the provisions of the International Registration Plan must follow those provisions when being registered.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. County clerks offices.

3. State the aspect or service of local government to which this administrative regulation relates. Issuance of apportioned registration plates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): 0

Expenditures (+/-): 0

Other Explanation: The county clerks offices, like the Department of Vehicle Regulation will experience administrative relief with the spreading out of the registration period of the apportioned vehicles.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 49 USC Chapter 317

2. State compliance standards. Kentucky was one of the first states to join the International Registration Plan and issues its apportioned registrations in compliance with the provisions of the Articles of Incorporation of IRP. Further, Kentucky collects and processes the registration tax for other jurisdictions as required by IRP.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate requires each state to participate in the International Registration Plan. The IRP requires each state to issue apportioned registration plates to all vehicles with a gross weight above 26,000 pounds which are to be operated in interstate commerce. It further requires each state to collect the proportional registration fees for each state in which the apportioned vehicle will

be operated.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

TRANSPORTATION CABINET
Department of Highways
Division of Traffic
(Amendment)

603 KAR 5:050. Uniform traffic control devices.

RELATES TO: KRS 189.337

STATUTORY AUTHORITY: KRS 189.337(2), 23 CFR Part 655 Subpart F

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189.337(2) requires the Transportation Cabinet, Department of Highways, to adopt a uniform system of traffic control devices. The Federal Highway Administration through its regulation 23 CFR Part 655 requires that the traffic control devices on all public highways or streets be in substantial conformance with the "Manual on Uniform Traffic Control Devices". This administrative regulation defines the system by incorporating by reference the "Manual on Uniform Traffic Control Devices" and the amendments adopted to the manual.

Section 1. Traffic Control Devices on All Public Highways. The standards and specifications set forth in the Federal Highway Administration publication "Manual on Uniform Traffic Control Devices for Streets and Highways" shall apply to all traffic control devices, including signs and roadway markings, installed on any publicly used highway, road, [or] street, avenue, alley, boulevard, bridge, viaduct, or trestle, and the approaches to them, and off-street parking facilities in Kentucky.

Section 2. ~~[Incorporation by Reference. A copy of the Federal Highway Administration publication "Manual on Uniform Traffic Control Devices for Streets and Highways 1988 Edition" revised January 23, 1989 is hereby incorporated by reference as part of this administrative regulation.]~~

~~Section 3. Availability of Manual. Copies of the Federal Highway Administration publication "Manual on Uniform Traffic Control Devices for Streets and Highways" may be viewed or copied at the Transportation Cabinet, Department of Highways, Division of Traffic, 501 High Street, First Floor, in Frankfort, Kentucky from 8 a.m. until 4:30 p.m. weekdays. Copies may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.~~

~~Section 4.] Federal Amendments to the Manual. (1) The revision to the "Manual on Uniform Traffic Control Devices" discussed in Federal Highway Administration Final Rule Docket 87-21, Notice No. 3, effective January 17, 1990 shall govern this administrative regulation. [is hereby incorporated by reference as a part of this administrative regulation.]~~

~~(2) The revision to the "Manual on Uniform Traffic Control Devices" discussed in Federal Highway Administration Final Rule Docket 87-21, effective March 17, 1992 shall govern this administrative regulation. [is hereby incorporated by reference as a part of this administrative regulation.]~~

~~(3) Part VI of the "Manual on Uniform Traffic Control Devices" published by the Federal Highway Administration on September 3, 1993 and effective January 10, 1994 shall govern this administrative regulation. [is hereby incorporated by reference as a part of this~~

~~administrative regulation.]~~

~~(4) Errata Sheet - Part VI, "Manual on Uniform Traffic Control Devices" (MUTCD) as published by the Federal Highway Administration, effective summer 1995 shall amend Part VI of the "Manual on Uniform Traffic Control Devices".~~

~~(5) The revision to the "Manual on Uniform Traffic Control Devices" contained in 62 Fed. Reg. 1364, January 10, 1997 shall govern this administrative regulation.~~

Section 3. Material Incorporated by Reference. (1) The following material is incorporated by reference in this administrative regulation:

(a) Federal Highway Administration publication "Manual on Uniform Traffic Control Devices for Streets and Highways" 1988 Edition revised January 23, 1989;

(b) Federal Highway Administration Final Rule Docket 87-21, Notice No. 3, effective January 17, 1990;

(c) Federal Highway Administration Final Rule Docket 87-21, effective March 17, 1992;

(d) Part VI of the "Manual on Uniform Traffic Control Devices" published by the Federal Highway Administration on September 3, 1993 and effective January 10, 1994;

(e) Errata Sheet - Part VI, "Manual on Uniform Traffic Control Devices" (MUTCD) as published by the Federal Highway Administration, effective summer 1995; and

(f) 62 Fed. Reg. 1364, January 10, 1997.

(2) Copies of the Federal Highway Administration publications incorporated by reference in this administrative regulation may be viewed or copied at the Transportation Cabinet, Department of Highways, Division of Traffic, 501 High Street, First Floor, in Frankfort, Kentucky from 8 a.m. until 4:30 p.m. weekdays. Copies may be purchased from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402. [Copies of the Federal Highway Administration revisions to the Manual on Uniform Traffic Control Devices for Streets and Highways may be obtained, viewed or copied at the Transportation Cabinet, Department of Highways, Division of Traffic, 501 High Street, First Floor, in Frankfort, Kentucky from 8 a.m. until 4:30 p.m. weekdays.]

J.M. YOWELL, P.E., State Highway Engineer

JAMES C. CODELL, III, Secretary

APPROVED BY AGENCY: June 30, 1997

FILED WITH LRC: July 11, 1997 at 9 a.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on August 29, 1997 at 11 a.m. local prevailing time in the Transportation Cabinet, 4th Floor Hearing Room, 501 High Street, State Office Building, Corner of High, Clinton and Holmes Streets, Frankfort, Kentucky 40622. Any person who intends to attend this meeting must in writing by August 22, 1997 so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by August 22, 1997. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is held, written comments will be accepted until the close of the hearing. If the hearing is canceled written comments will only be accepted until the close of business on August 29, 1997. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra Pullen Davis, Staff Assistant, Transportation Cabinet, Office of General Counsel, 501 High Street, Frankfort, Kentucky 40622, (502) 564-7650, Fax: (502) 564-5238.

ADMINISTRATIVE REGISTER - 404

REGULATORY IMPACT ANALYSIS

Contact person: Sandra Pullen Davis

(1) Type and number of entities affected: All governmental agencies in Kentucky responsible for any type of traffic control device.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held. However, no effect on the cost of living or employment are anticipated.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held. However, no effect on the cost of living or employment are anticipated.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: The changes required by the change in the federal standards will be implemented as part of the Department of Highway's routine maintenance/traffic operations. No additional cost or savings will result from the change.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Transportation Cabinet will only implement the changes on the state-maintained highways. This will be done with road funds allocated for the operations/traffic function of the department.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public comment hearing was not held. However, no economic impacts are anticipated.

(b) Kentucky: A public comment hearing was not held. However, no economic impacts are anticipated.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The Transportation Cabinet considered extending the provisions of the MUTCD to privately owned facilities which are open to the public. These would have included shopping centers, sports arenas, and office building parking lots. The Federal Highway Administration in its latest amendment to the MUTCD strongly recommended that each state do this. However, a legal review of KRS Chapter 189 indicated that the Transportation Cabinet does not have sufficient authority to extend the requirements of the MUTCD to privately-owned facilities.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Each change to the MUTCD is designed to add to traffic safety or to respond to changing signage needs without adversely affecting highway safety.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No

(c) If detrimental effect would result, explain detrimental effect:

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments: Expanding the provisions of the MUTCD to private facilities would likely have a positive affect on safety in these parking lots. However, the General Assembly is the appropriate entity to establish the requirement for such control, not the Executive Branch of Kentucky state government.

(11) TIERING: Is tiering applied? Yes. The amount of signage and the use of traffic control devices is tiered based on the type and usage of the particular highway or street.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. The Department of Highways or Roads or Public Works in all city and county governments.

3. State the aspect or service of local government to which this administrative regulation relates. Placement of traffic signs and pavement marking on public highways and streets. Traffic control methods in highway work zones.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): 0

Expenditures (+/-): 0

Other Explanation: The local government agencies will be able to implement these changes to the Manual as part of their regular road and street maintenance budgets.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 23 CFR Part 655 Subpart F

2. State compliance standards. Kentucky has adopted and been guided by the mandated Manual on Uniform Traffic Control Devices for many years.

3. Minimum or uniform standards contained in the federal mandate. These federal regulations contain the following minimum standards:

(a) The listing of the type of signs and their placement required on each highway type;

(b) Establishes the type and placement of pavement markings required on each highway type; and

(c) Traffic controls to be used in construction, maintenance or utility work zones.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

EDUCATION, ARTS, AND HUMANITIES CABINET Education Professional Standards Board (Amendment)

704 KAR 20:670. Kentucky teaching certificates.

RELATES TO: KRS 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 requires that teachers and other professional school personnel hold

certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. Additionally, KRS 161.028, requires teacher education institutions be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established by the Education Professional Standards Board. This administrative regulation establishes the Kentucky certification to be issued for classroom teaching positions.

Section 1. Definitions. (1) "New teacher standards for preparation and certification" means the standards that describe what first-year teachers shall know and be able to do in authentic teaching situations.

(2) "Experienced teacher standards" means the standards set forth in 704 KAR 20:021 that identify what effective experienced teachers shall know and do.

(3) "Approved program of preparation" means one (1) which has been approved by the Education Professional Standards Board for a specific certification or which has been approved for certification by the state education agency of another state.

(4) "Statement of eligibility" means the document issued to an applicant upon completion of an approved program of preparation and successful completion of the assessments.

(5) "Assessments" mean the tests of knowledge and skills authorized by KRS 161.030.

(6) "Provisional teaching certificate" means the document issued to individuals for the duration of the beginning teacher internship program.

(7) "Beginning teacher internship" means one (1) year of supervision, assistance, and assessment required by KRS 161.030.

(8) "Professional teaching certificate" means the document issued to individuals upon successful completion of the beginning teacher internship and to applicants for whom the testing and internship are waived under KRS 161.030 based on preparation and experience completed outside Kentucky.

Section 2. Certificate Issuance. (1) A statement of eligibility for a provisional teaching certificate shall be issued to an applicant who has successfully completed a bachelor's degree, or a master's degree as set forth in Section 4(7)(e) and (8)(e) of this administrative regulation from an institution defined in KRS 161:010; an approved preparation program and assessments corresponding to the certificate identified in Section 4 of this administrative regulation for which application is being made.

(2) Upon confirmation of employment in an assignment for the grade level and specialization identified on a valid statement of eligibility, a Provisional Teaching Certificate shall be issued for the duration of the beginning teacher internship established under KRS 161.030.

(3) Upon successful completion of the internship, a Professional Teaching Certificate shall be issued, valid for a four (4) year period.

Section 3. Certificate Renewal. (1) The renewal shall require completion of a fifth-year program of preparation which is consistent with the experienced teacher standards or with standards adopted by the Education Professional Standards Board for a particular professional education specialty as defined in 704 KAR 20:021.

(2) The first five (5) year renewal shall require completion of a minimum of fifteen (15) semester hours of credit applicable to the fifth-year program as defined in 704 KAR 20:021 by September 1 of the year of expiration.

(3) The second five (5) year renewal shall require completion of the fifth-year program as defined in 704 KAR 20:021 by September 1 of the year of expiration.

(4) Each subsequent five (5) year renewal shall require completion of three (3) years of successful teaching experience or comple-

tion of at least six (6) semester hours of credit related to the profession of teaching by September 1 of the year of expiration.

Section 4. Grade Levels and Specializations. Preparation for all certificates shall ensure that teachers have the knowledge and skills for the instruction of all children including intellectually gifted and talented children and those with disabilities; are proficient in the use of technology and in the instruction for multiage and multiability grouping; and have knowledge and skills to implement the goals for the schools of the Commonwealth specified in KRS 158.6451. Teaching certificates shall be issued specifying one (1) or more of the following grade level and specialization authorizations:

(1) Interdisciplinary early childhood education, birth to primary, 704 KAR 20:084;

(2) Elementary school: primary through grade five (5) to include preparation in the academic disciplines taught in the elementary school;

(3)(a) Middle school: grades five (5) through nine (9) with two (2) middle school teaching fields to be selected from:

1. English and communications;
2. Mathematics;
3. Science; or
4. Social studies;

(b) Candidates who choose to simultaneously prepare for teaching in the middle school and for teaching exceptional children as provided in subsection (7) of this section shall be required to complete only one (1) middle school teaching field;

(4) Secondary school: grades eight (8) through twelve (12) with one (1) or more of the following specializations:

- (a) English;
- (b) Mathematics;
- (c) Social studies;
- (d) Biological science; or
- (e) Physical science;

(5) Grades five (5) through twelve (12) with one (1) or more of the following specializations:

- (a) Agriculture;
- (b) Business and marketing education;
- (c) Home economics; or
- (d) Industrial technology;

(6) All grade levels with one (1) or more of the following specialties:

- (a) Art;
- (b) A foreign language;
- (c) Health;
- (d) Physical education;
- (e) Music; or
- (f) School media librarian;

(7) Grades primary through twelve (12) for teaching exceptional children and for collaborating with teachers to design and deliver programs for preprimary children, for one (1) or more of the following disabilities:

- (a) Learning and behavior disorders;
- (b) Moderate and severe disabilities, 704 KAR 20:251;
- (c) Teacher of deaf and hard of hearing;
- (d) Visually impaired; or
- (e) Communication disorders, valid at all grade levels for the instruction of exceptional children and youth with communication disorders, and requires a master's degree in communication;

(8) Endorsements to certificates identified in subsections (1) through (7) of this section, valid for all grade levels, for the following:

- (a) Computer science;
- (b) English as second language;
- (c) Gifted education;
- (d) Driver education; or
- (e) Reading and writing and requires a master's degree in reading.

Section 5. Additional Certification. Candidates who hold a certificate [certification] valid for classroom teaching shall [may] qualify for additional certification upon:

(1) The recommendation of an approved institution of higher education, which shall include consideration of the performance standards; and

(2) The successful completion of each required Education Professional Standards Board assessment applicable to the additional certification being sought. [recommendation by an institution of higher education which shall include consideration of the performance standards and the assessments applicable to the additional certification sought.]

Section 6. New Teacher Standards for Preparation and Certification. The approved program of preparation for each certification shall be designed to address the student academic expectations as provided by 703 KAR 4:060; to meet the content standards provided by 704 KAR 20:696 [20:695]; to prepare candidates to teach children, including children from culturally diverse backgrounds, and manage tasks identified in the following teacher performance standards:

(1) New Teacher Standard I, designs and plans instruction. The teacher designs and plans instruction and learning climates that develop student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(2) New Teacher Standard II, creates and maintains learning climates. The teacher creates a learning climate that supports the development of student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(3) New Teacher Standard III, implements and manages instruction. The teacher introduces, implements, and manages instruction that develops student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(4) New Teacher Standard IV, assesses and communicates learning results. The teacher assesses learning and communicates results to students and others with respect to student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(5) New Teacher Standard V, reflects and evaluates teaching and learning. The teacher reflects on and evaluates specific teaching and learning situations and programs;

(6) New Teacher Standard VI, collaborates with colleagues, parents, and others. The teacher collaborates with colleagues, parents, and other community agencies to design, implement, and support learning programs that develop student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(7) New Teacher Standard VII, engages in professional development. The teacher evaluates his overall performance with respect to modeling and teaching Kentucky's learning goals established in KRS 158.6451, refines the skills and processes necessary, and implements a professional development plan; and

(8) New Teacher Standard VIII, content knowledge. The teacher demonstrates a current and sufficient academic knowledge of certified content areas to develop student knowledge and performance in those areas.

Section 7. Effective Dates. (1) The provisions for the issuance of teaching certificates for each grade level and for each specialization identified in this administrative regulation shall become effective for all students admitted to the specific program of preparation beginning January 1, 1998.

(2) Candidates admitted prior to January 1, 1998, under one (1)

or more of the following administrative regulations shall complete the program by September [January] 1, 2000: 704 KAR 20:057, 20:070, 20:075, 20:076, 20:078, 20:080, 20:095, 20:105, 20:115, 20:135, 20:145, 20:146, 20:159, 20:160, 20:161, 20:175, 20:180, 20:229, 20:230, 20:235, 20:255, 20:275, 20:280, 20:290, 20:340, 20:500, 20:520, and 20:570.

(3) Candidates who fail to complete the program by September [January] 1, 2000, and do not apply for the certification by January [September] 1, 2001 [2000] shall be required to qualify for the certification identified in this administrative regulation.

(4) The Education Professional Standards Board shall communicate to the Kentucky colleges and universities approved for these programs the effective date for admission to each new program identified in this administrative regulation and the date by which a candidate shall complete the former program. Colleges and universities shall take adequate steps to inform candidates in these programs regarding the deadline dates.

ROSA WEAVER, Chair

APPROVED BY AGENCY: April 30, 1997

FILED WITH LRC: June 27, 1997 at 3 p.m.

PUBLIC HEARING: The public hearing on this administrative regulation will be held on August 22, 1997, at 10 a.m., in the First Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 15, 1997, five work days prior to hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Dr. Betty Lindsey, Executive Secretary, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, FAX (502) 573-1610.

REGULATORY IMPACT ANALYSIS

Contact Person: Ronda Tamme

(1) Type and number of entities affected: Approximately 5,000 individuals who apply for initial certification annually; 176 school districts and 25 institutions of higher education.

(2) Direct and indirect costs or savings on the: None

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: None

1. First year following implementation:

2. Second and subsequent years:

(3) Effects on promulgating administrative body: The amendment will increase the amount of time for completing preparation programs.

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and

enforcement of administrative regulation: State General Fund.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on: No comments received.

(a) Geographical area in which administrative regulation will be implemented:

(b) Kentucky:

(7) Assessment of alternative methods; reasons why alternatives were rejected: Allowing the current deadline to remain will present problems for candidates completing old certification programs.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical areas in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Certification requirements are uniformly applicable to all individuals.

WORKFORCE DEVELOPMENT CABINET
State Board for Adult and Technical Education
Department for Adult Education and Literacy
(Amendment)

785 KAR 1:010. Testing program.

RELATES TO: KRS 151B.023, 151B.110, 151B.125

STATUTORY AUTHORITY: KRS 151B.023, 151B.110, 151B.125

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.110 delegates to the State Board for Adult and Technical Education the responsibility for adult education programs and services in Kentucky. KRS 151B.023(4) provides that the Department for Adult Education and Literacy is the agency solely designated for the purposes of adopting state plans required for federal adult education programs and services in Kentucky. KRS 151B.125 recognizes the General Educational Development (GED) test for high school equivalency purposes in Kentucky. This administrative regulation establishes the means whereby adults may be tested by official GED testing centers to determine their eligibility for receiving a high school equivalency diploma.

Section 1. (1) The GED test shall provide a valid means of measuring the educational achievement of an adult who is a nonhigh school graduate and of comparing the adult's competency with that of high school graduates. The test shall be a high school level battery consisting of five (5) comprehensive examinations: Test 1: Writing Skills Test (Parts I and II); Test 2: Social Studies Test; Test 3: Science Test; Test 4: Interpreting Literature and the Arts Test; and Test 5: Mathematics Test.

(2) An applicant shall be certified as test-ready. An applicant presenting a GED-on-TV voucher from Kentucky Educational Television study shall not be required to meet the test-readiness prerequisite.

(3) The GED test shall be administered to an applicant with a Kentucky address, officially withdrawn from school, who has reached his nineteenth (19) birthday. An officially withdrawn applicant who is at least seventeen (17) years of age and whose last enrolled class has graduated or who has been out of formal classroom for a period of one (1) year may be administered the GED test. An applicant,

officially withdrawn from school, who is sixteen (16) years of age shall meet one (1) of the following criteria:

(a) Committed or placed in state correctional facility; or

(b) Completed Job Corps Program of instruction.

(4)(a) An applicant at least sixteen (16) years of age who believes exigent circumstances exist and who does not meet the conditions of subsection (3)(a) or (b) of this section may request an exemption from the local school superintendent or designee in the district where the applicant resides.

(b) An exemption granted on the basis of exigent circumstances or a denial shall be in writing. A copy of the decision shall be mailed or faxed within five (5) working days to the state GED administrator. Dissatisfaction resulting from a denial may be appealed to the Commissioner of the Department for Adult Education and Literacy.

(c) Exigent circumstances may include: sentenced by a court to an educational program and program completed or admission to a postsecondary program which is contingent upon earning a high school equivalency diploma (GED).

(5) Official GED testing centers shall be established under contract with the GED Testing Service of the Commission on Accreditation with locations authorized by the State Board for Adult and Technical Education. GED testing services for individuals confined to state correctional and health institutions shall be approved by the State Board for Adult and Technical Education.

(6) Testing fees shall be established by the State Board for Adult and Technical Education at a uniform fee of thirty (30) ~~twenty-five (25)~~ dollars or six (6) ~~five (5)~~ dollars per subtest. The Department for Adult Education and Literacy shall not charge a fee for testing services provided for individuals confined to state correctional and health institutions.

(7) An applicant seeking a high school equivalency diploma shall complete the appropriate application form provided for this purpose prior to taking the GED test. This form shall be available from local adult education providers, local school superintendents or the Department for Adult Education and Literacy. Military personnel shall not be required to complete the application form prior to taking the test. Military personnel shall complete an application form before a high school equivalency diploma shall be issued. Military personnel may use the Military GED Application (Form 300-M).

(8) If an applicant passes the five (5) subtests with a minimum standard test score of forty (40) but does not attain an average standard score of forty-five (45), he shall be eligible to retake a subtest in an attempt to raise the overall standard score. The testing center proctor shall recommend which subtest may be retaken.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "GED Testing Application (DAEL-6)", revised 10/96 edition, Cabinet for Workforce Development, Department for Adult Education and Literacy; and

(b) "Application for High School Equivalency Diploma or Certificate (Military GED Application) (Form 300-M)", revised 7/85 edition, GED Testing Service, Washington, D.C.

(2) This material may be inspected, copied, or obtained at the Department for Adult Education and Literacy, Capital Plaza Tower, Third Floor, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

J. LARRY STINSON, Chairman

RODNEY S. CAIN, Secretary

APPROVED BY AGENCY: May 15, 1997

FILED WITH LRC: July 15, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 27, 1997, at 9 a.m. in the Third Floor Conference Room of the Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 20, 1997, five

days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Beverly Haverstock, General Counsel, Workforce Development Cabinet, Capital Plaza Tower, Second Floor, 500 Mero Street, Frankfort, Kentucky 40601, Phone: (502) 564-6606, FAX: (502) 564-7967.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: Approximately 18,000 examinees who are administered the GED tests each year, approximately 220 local adult education providers, and 56 GED testing centers will be affected.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments being received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments being received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: Fees for GED test administration are increased by \$5 per battery or \$1 per subtest to keep up with increasing costs to local testing centers. The GED Testing Service of the American Council on Education has increased the GED leasing fee from \$25 per test battery or \$5 per subtest to \$30 per test battery or \$6 per sub-test.

2. Second and subsequent years: The increased fees will continue as needed for cost recovery.

3. Effects on the promulgating administrative body:

(3)(a) Direct and indirect costs or savings:

1. First year: There should be increased revenue to support the local testing centers statewide.

2. Continuing costs or savings: The increased fees will continue as needed for cost recovery.

3. Additional factors increasing or decreasing costs: Kentucky must follow the policies and procedures of the GED Testing Service of the American Council on Education. Kentucky's GED testing fees are set for cost recovery.

(b) Reporting and paperwork requirements: This new requirement should have a minimal impact on the reporting and paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: The only revenues that support GED testing centers come from fees assessed on the examinee. The increased fees which will increase revenue for the local GED testing centers are needed to achieve cost recovery.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: N/A

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments being received.

(b) Kentucky. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments being received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method considered. The only revenues that support GED testing centers come from fees assessed on the examinee. The increased fees which will increase revenue for the local GED testing centers are needed to achieve cost recovery.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: The GED Testing Service of the American Council on Education has increased the GED leasing fee from \$25 per test battery or \$5 per subtest to \$30 per test battery or \$6 per subtest. Fees for GED test administration are increased by \$5 per battery or \$1 per subtest to keep up with increasing costs to local testing centers.

(11) TIERING: Is tiering applied? Tiering was not applied. Adult education services must be applied on a consistent and equitable basis in accordance with federal guidelines.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Although not mandated by a federal statute or regulation, the agency must follow the policies of the GED Testing Service, American Council on Education. Effective with the contract renewal date, August 1, 1997, the GED leasing fee will increase \$5 per examinee at each session. The only revenues that support GED testing centers come from fees assessed on the examinee. The testing fee will be increased from \$25 per battery or \$5 per subtest to \$30 per battery or \$6 per subtest. The increased fees which will increase revenue for the local GED testing centers are needed to achieve cost recovery.

2. State compliance standards. Although not mandated by a federal statute or regulation, the agency must follow the policies of the GED Testing Service, American Council on Education. Effective with the contract renewal date, August 1, 1997, the GED leasing fee will increase \$5 per examinee at each session. The only revenues that support GED testing centers come from fees assessed on the examinee. The testing fee will be increased from \$25 per battery or \$5 per subtest to \$30 per battery or \$6 per subtest. The increased fees which will increase revenue for the local GED testing centers are needed to achieve cost recovery.

3. Minimum or uniform standards contained in the federal mandate. N/A

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

ADMINISTRATIVE REGISTER - 409

WORKFORCE DEVELOPMENT CABINET State Board for Adult and Technical Education Department for Adult Education and Literacy (Amendment)

785 KAR 1:020. High school equivalency diploma.

RELATES TO: KRS 151B.023, 151B.110, 151B.125

STATUTORY AUTHORITY: KRS 151B.023, 151B.110, 151B.125

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.110

delegates to the State Board for Adult and Technical Education the responsibility for adult education programs and services in Kentucky. KRS 151B.023 provides that the Department for Adult Education and Literacy is the agency solely designated for the purposes of adopting state plans required for federal adult education programs and services in Kentucky. KRS 151B.125 recognizes the General Educational Development (GED) test for high school equivalency purposes in Kentucky and authorizes a fee to be assessed for duplicate equivalency diplomas. This administrative regulation establishes the means whereby a high school equivalency diploma shall be issued through the Department for Adult Education and Literacy to adults who pass the GED test.

Section 1. GED test scanner sheets from official testing centers shall be sent to the Department for Adult Education and Literacy for scoring. The Department for Adult Education and Literacy shall provide a high school equivalency diploma to an applicant who has taken the GED test and who has scored at least forty (40) ~~thirty-five (35)~~ on each of the five (5) GED sub-tests and has an overall average standard score of forty-five (45) on the five (5) subtests.

Section 2. GED test scores shall be accepted as official only if reported by a state, territorial, or provincial department of education; a GED testing center; the Educational Testing Service (as the repository of score reports issued by the U.S. Armed Forces Institute); or the GED testing service.

Section 3. There shall be no charge for the issuance of an initial high school equivalency diploma or initial transcript. A five (5) dollar fee shall be collected for the issuance of a duplicate GED diploma or duplicate transcript. Fees shall be used to support the adult education program. Requests for scores shall be in writing and shall carry signature, birth date and Social Security number of the examinee.

J. LARRY STINSON, Chairman

RODNEY S. CAIN, Secretary

APPROVED BY AGENCY: May 15, 1997

FILED WITH LRC: July 15, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 27, 1997, at 9 a.m. in the Third Floor Conference Room of the Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 20, 1997, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Beverly Haverstock, General Counsel, Workforce Development Cabinet, Capital Plaza Tower, Second Floor, 500 Mero Street, Frankfort, Kentucky 40601, Phone: (502) 564-6606,

FAX: (502) 564-7967.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: Approximately 10,500 examinees who successfully complete the GED tests each year.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

3. Effects on the promulgating administrative body:

(3)(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: N/A

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Kentucky. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Although not mandated by a federal statute or regulation, the agency must follow the policies of the GED Testing Service, American Council on Education which has approved a policy requiring all states to set minimum standard scores of 40 on each of the five GED subtests and a 45 overall average on the complete battery of tests. States were required to have this policy in regulation by January 1, 1997. 785 KAR 1:010, Testing Program, was amended prior to the January 1, 1997, deadline. 785 KAR 1:020 should have been revised at the same time. This administrative regulation will correct the administrative oversight. The administrative regulation will increase Kentucky's minimum standard passing score on the GED tests from 35 to 40 and continue the overall average standard score of 45.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(9) Identify any statute, administrative regulation or government

policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: This administrative regulation corrects an administrative oversight.

(11) TIERING: Is tiering applied? Tiering was not applied. The guidelines used reflect policies of the GED Testing Service, American Council on Education.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Although not mandated by a federal statute or regulation, the agency must follow the policies of the GED Testing Service, American Council on Education.

2. State compliance standards. Although not mandated by a federal statute or regulation, the agency must follow the policies of the GED Testing Service, American Council on Education which has approved a policy requiring all states to set minimum standard scores of 40 on each of the five GED subtests and a 45 overall average on the complete battery of tests. States were required to have this policy in regulation by January 1, 1997. 785 KAR 1:010, Testing Program, was amended prior to the January 1, 1997, deadline. 785 KAR 1:020 should have been revised at the same time. This amendment will correct the administrative oversight.

3. Minimum or uniform standards contained in the federal mandate. Although not mandated by a federal statute or regulation, the agency must follow the policies of the GED Testing Service, American Council on Education which has approved a policy requiring all states to set minimum standard scores of 40 on each of the five GED subtests and a 45 overall average on the complete battery of tests. States were required to have this policy in regulation by January 1, 1997. 785 KAR 1:010, Testing Program, was amended prior to the January 1, 1997, deadline. 785 KAR 1:020 should have been revised at the same time. This amendment will correct the administrative oversight.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Although not mandated by a federal statute or regulation, the agency must follow the policies of the GED Testing Service, American Council on Education which has approved a policy requiring all states to set minimum standard scores of 40 on each of the five GED subtests and a 45 overall average on the complete battery of tests. States were required to have this policy in regulation by January 1, 1997. 785 KAR 1:010, Testing Program, was amended prior to the January 1, 1997, deadline. 785 KAR 1:020 should have been revised at the same time. This administrative regulation will correct the administrative oversight. This administrative regulation will reflect the standards set by the GED Testing Service; it will not impose stricter requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will reflect the standards set by the GED Testing Service.

CABINET FOR HEALTH SERVICES Office of Inspector General Division of Licensing and Regulation (Amendment)

902 KAR 20:048. Operation and services; nursing homes.

RELATES TO: KRS 216B.010 to 216B.130 ~~[216B.131]~~, 216B.990

STATUTORY AUTHORITY: KRS 216B.042, 216B.105, 314.011(8), 314.042(8), 320.240(14), EO 96-862 ~~[(3)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 and 216B.105~~(3)~~ mandate that the Cabinet for Health Services ~~[Human Resources]~~ regulate health facilities and health services. This

administrative regulation establishes licensure requirements for existing nursing homes. This administrative regulation does not address the establishment of new nursing homes. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Office of Inspector General and its programs under the Cabinet for Health Services.

Section 1. Definitions. (1) "Activities of daily living" means activities of self-help (e.g., being able to feed, bathe and~~for~~ dress oneself), communication (e.g., being able to place phone calls, write letters and understanding instructions) and socialization (e.g., being able to shop, being considerate of others, working with others and participating in activities).

(2) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

~~(3) "Board" means the Commission on Health Economics Control in Kentucky.~~

~~(4)~~ "Facility" means a nursing home facility.

~~(4)~~ ~~(5)~~ "License" means an authorization issued by the cabinet for the purpose of operating a nursing home and offering nursing home services.

~~(5)~~ ~~(6)~~ "PRN medications" means medications administered as needed.

~~(6)~~ ~~(7)~~ "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

~~[(8)] "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.~~

~~(7)~~ ~~(9)~~ "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

Section 2. Scope of Operations and Services. Nursing homes are establishments with permanent facilities that include inpatient beds. Services provided include medical services, and continuous nursing services. Patients in a nursing home facility require inpatient care but do not currently require inpatient hospital services, and have a variety of medical conditions.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator.

(a) All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence.

(b) The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of the patient. The contract shall be in writing.

(3) Administrative records.

(a) The facility shall maintain a bound, permanent, chronological patient registry showing date of admission, name of patient, and date of discharge.

(b) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) Menu and food purchase records shall be maintained.

(d) A written report of any incident or accident involving a patient (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator or nursing service supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.

(4) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Patient care and services to include physician, nursing, pharmaceutical (including medication stop orders policy), and residential services.

(b) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children ~~[to the Cabinet for Human Resources]~~ pursuant to KRS Chapters 209 and 620.

(c) Use of restraints. The facility shall have a written policy that addresses the use of restraints and a mechanism for monitoring and controlling their use.

(d) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(5) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(6) Admission.

(a) Patients shall be admitted only upon the referral of a physician. Additionally, the facility shall admit only persons who have a variety of medical conditions and require medical services, continuous medical services, and inpatient care but do not currently require inpatient hospital services. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. Within forty-eight (48) hours after admission the facility shall obtain a medical evaluation from the patient's physician including current medical findings, medical history and physical examination. The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital or nursing facility, if done within five (5) days prior to admission.

(c) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility including fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(d) The facility shall provide and maintain a system for identifying each patient's personal property and facilities for safekeeping of his declared valuables. Each patient's clothing and other property shall be reserved for his own use.

(7) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(8) Transfer and discharge. The facility shall comply with the requirements of 900 KAR 2:050 when transferring or discharging residents. [Transfer procedures and agreements.]

(a) The facility shall have written transfer procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arrange for appropriate and safe transportation.

(b) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility, or services shall be contracted for from another community resource.

(c) When changes and progress occur which would enable the patient to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for patients to be transferred to facilities providing appropriate services.

(d) Except in an emergency, the patient, his next of kin, or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(e) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(f) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(9) Tuberculosis testing. All employees and patients shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200, Tuberculosis testing in long term care facilities.

(10) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel, to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration where required by law, health records, records of in-service training and ongoing education, and the employee's name, address and social security number.

(c) Staffing requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients and the amount and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by this administrative regulation.

2. When the staff to [4] patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.

3. A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies.

4. Volunteers shall not be counted to make up minimum staffing requirements.

5. The facility shall have a director of nursing service who is a registered nurse and who works full time during the day, and who devotes full time to the nursing service of the facility. If the director of nursing has administrative responsibility for the facility, there shall be an assistant director of nursing, so that there shall be the equivalent of a full-time director of nursing service. The director of nursing shall be trained or experienced in areas of nursing service, administration, rehabilitation nursing, psychiatric or geriatric nursing. The director of the nursing service shall be responsible for:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel.

b. Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.

c. Assigning and supervising all levels of nursing personnel.

d. Participating in planning and budgeting for nursing care.

e. Participating in the development and implementation of patient care policies.

f. Coordinating nursing services with other patient care services.

g. Planning and conducting orientation programs for new nursing personnel and continuing in-service education for all nursing personnel.

h. Participating in the screening of prospective patients in terms of required nursing services and nursing skills available.

i. Assuring that a written monthly assessment of the patient's general condition is completed.

j. Assuring that a nursing care plan shall be established for each patient and that his plan shall be reviewed and modified as necessary.

k. Assuring that registered nurses, licensed practical nurses, nurses' aides and orderlies are assigned duties consistent with their training and experience.

l. Assuring that a monthly review of each patient's medications is completed and notifying the physician when changes are appropriate.

6. Supervising nurse. Nursing care shall be provided by or under the direction of a full-time registered nurse. The supervising nurse may be the director of nursing or the assistant director of nursing and shall be trained or experienced in the areas of nursing administration and supervision, rehabilitative nursing, psychiatric or geriatric nursing. The supervising nurse shall make daily rounds to all nursing units performing such functions as visiting each patient, and reviewing medical records, medication cards, patient care plans, and staff assignments, and whenever possible accompanying physicians when visiting patients.

7. Charge nurse. There shall be at least one (1) registered nurse or licensed practical nurse on duty at all times who is responsible for the nursing care of patients during her tour of duty. When a licensed practical nurse is on duty, a registered nurse shall be on call.

8. Pharmacist. The facility shall retain a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

9. Therapists.

a. If rehabilitative services beyond rehabilitative nursing care are offered, whether directly or through cooperative arrangements with agencies that offer therapeutic services, these services shall be provided or supervised by qualified therapists to include licensed physical therapists, speech pathologists and occupational therapists.

b. When supervision is less than full time, it shall be provided on a planned basis and shall be frequent enough, in relation to the staff therapist's training and experience, to assure sufficient review of individual treatment plans and progress.

c. In a facility with an organized rehabilitation service using a multidisciplinary team approach to meet all the needs of the patient, and where all therapists' services are administered under the direct supervision of a physician qualified in physical medicine who will determine the goals and limits of the therapists' work, and prescribes modalities and frequency of therapy, persons with qualifications other than those described in subsection (9)(c)9a of this section may be assigned duties appropriate to their training and experience.

10. Dietary. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and on duty a minimum of thirty-five (35) hours each week.

11. Each facility shall designate a person for the following areas who will be responsible for:

a. Medical records;

b. Arranging for social services; and

c. Developing and implementing the activities program and therapeutic recreation.

12. Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and procedures of the facility.

(d) Health requirements. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(e) Orientation program. The facility shall conduct an orientation program for all new employees to include review of all facility policies (that relate to the duties of their respective jobs), services and emergency and disaster procedures.

(f) In-service training.

1. All employees shall receive in-service training and ongoing education to correspond with the duties of their respective jobs.

2. All nursing personnel shall receive in-service or continuing education programs at least quarterly.

(11) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including the patient's name, address and social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation by a physician including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, skilled nursing facility if done within five (5) days prior to admission.)

3. ~~The physician's~~ Dated and signed orders of prescribing physician or advanced registered nurse practitioner or therapeutically-certified optometrist for medication, diet, and therapeutic services.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication dosage, name of prescribing physician or advanced registered nurse practitioner or therapeutically-certified optometrist and name of person who administered the medication.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, mode and frequency of PRN medications administered, condition necessitating administration of PRN medication, reaction following PRN medication, visits by physician and phone calls to the physician, medically prescribed diets and preventive maintenance or rehabilitative nursing measures.

8. Written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services (if applicable).

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

Section 4. Provision of Services. (1) Physician services.

(a) The health care of every patient shall be under the supervision of a physician who, based on an evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of medical care

which covers indicated medications, treatments, rehabilitative services, diet, special procedures recommended for the health and safety of the patient, activities, plans for continuing care and discharge.

(b) Patients shall be evaluated by a physician at least once every thirty (30) days for the first sixty (60) days following admission. Subsequent to the 60th day following admission, the patients shall be evaluated by a physician every sixty (60) days unless justified and documented by the attending physician in the patient's medical record. There shall be evidence in the patient's medical record of the physician visits to the patient at appropriate intervals.

(c) There shall be evidence in the patient's medical record that the patient's attending physician has made arrangement for the medical care of the patient in the physician's absence.

(d) Availability of physicians for emergency care. The facility shall have arrangements with one (1) or more physicians who will be available to furnish necessary medical care in case of an emergency if the physician responsible for the care of the patient is not immediately available. A schedule listing the names and telephone numbers of these physicians and the specific days each shall be on call shall be posted in each nursing station. There shall be established procedures to be followed in an emergency, which cover immediate care of the patient, persons to be notified, and reports to be prepared.

(2) Nursing services.

(a) Twenty-four (24) hour nursing service. There shall be twenty-four (24) hour nursing service with a sufficient number of nursing personnel on duty at all times to meet the total needs of patients. Nursing personnel shall include registered nurses, licensed practical nurses, aides and orderlies. The amount of nursing time available for patient care shall be exclusive of nonnursing duties. Sufficient nursing time shall be available to assure that each patient:

1. Shall receive treatments, medication, and diets as prescribed;
2. Shall receive proper care to prevent decubiti and shall be kept comfortable, clean and well-groomed;
3. Shall be protected from accident and injury by the adoption of indicated safety measures;
4. Shall be treated with kindness and respect.

(b) Rehabilitative nursing care. There shall be an active program of rehabilitative nursing care directed toward assisting each patient to achieve and maintain his highest level of self-care and independence.

1. Rehabilitative nursing care initiated in the hospital shall be continued immediately upon admission to the facility.

2. Nursing personnel shall be taught rehabilitative nursing measures and shall practice them in their daily care of patients. These measures shall include:

- a. Maintaining good body alignment and proper positioning of bedfast patients;
- b. Encouraging and assisting bedfast patients to change positions at least every two (2) hours, day and night to stimulate circulation and prevent decubiti and deformities;
- c. Making every effort to keep patients active and out of bed for reasonable periods of time, except when contraindicated by physician's orders, and encouraging patients to achieve independence in activities of daily living by teaching self care, transfer and ambulation activities;
- d. Assisting patients to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary;
- e. Assisting patients to carry out prescribed physical therapy exercises between visits of the physical therapist.

(c) Dietary supervision. Nursing personnel shall assure that patients are served diets as prescribed. Patients needing help in eating shall be assisted promptly upon receipt of meals. Food and fluid intake of patients shall be observed and deviations from normal shall be reported to the charge nurse. Persistent unresolved problems shall be reported to the physician.

(d) Nursing care plan. There shall be written nursing care plans for each patient based on the nature of illness, treatment prescribed,

long and short term goals and other pertinent information.

1. The nursing care plan shall be a personalized, daily plan for individual patients. It shall indicate what nursing care is needed, how it can best be accomplished for each patient, what are the patients preferences, what methods and approaches are most successful, and what modifications are necessary to insure best results.

2. Nursing care plans shall be available for use by all nursing personnel.

3. Nursing care plans shall be reviewed and revised as needed.

4. Relevant nursing information from the nursing care plan shall be included with other medical information when patients are transferred.

(3) Specialized rehabilitative services.

(a) Rehabilitative services shall be provided upon written order of the physician which indicates anticipated goals and prescribes specific modalities to be used and frequency of physical, speech and occupational therapy services.

(b) Therapy services shall include:

1. Physical therapy which includes:

- a. Assisting the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;
- b. Treating patients to relieve pain, develop or restore functions, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.

2. Speech therapy which includes:

- a. Service in speech pathology or audiology;
- b. Cooperation in the evaluation of patients with speech, hearing, or language disorders;
- c. Determination and recommendation of appropriate speech and hearing services.

3. Occupational therapy services which include:

- a. Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests;
- b. Guiding the patient in his use of therapeutic creative and self care activities for improving function.

(c) Therapists shall collaborate with the facility's medical and nursing staff in developing the patient's total plan of care.

(d) Ambulation and therapeutic equipment. Commonly used ambulation and therapeutic equipment necessary for services offered shall be available for use in the facility such as parallel bars, hand rails, wheelchairs, walkers, walkerettes, crutches and canes. The therapists shall advise the administrator concerning the purchase, rental, storage and maintenance of equipment and supplies.

(4) Personal care services. Personal care services shall include: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, and washing, grooming and cutting of hair.

(5) Pharmaceutical services.

(a) The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering drugs and biologicals, developed with the advice of a licensed pharmacist or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the department.

(c) If the facility does not have a pharmacy department, it shall have provision for promptly obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) If the facility does not have a pharmacy department, but does maintain a supply of drugs:

1. The consultant pharmacist shall be responsible for the control of all bulk drugs and maintain records of their receipt and disposition.
2. The consultant pharmacist shall dispense drugs from the drug supply, properly label them and make them available to appropriate licensed nursing personnel.

3. Provisions shall be made for emergency withdrawal of medications from the drug supply.

(e) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(f) Medication services.

1. ~~[Conformance with physician's orders.]~~ All medications administered to patients shall be ordered in writing by the prescribing [patient's] physician or advanced registered nurse practitioner as authorized in KRS 314.011(8) and 314.042(8), or therapeutically-certified optometrists as authorized in KRS 320.240(14). Telephone orders shall be given only to a licensed nurse or pharmacist immediately reduced to writing, signed by the nurse and countersigned by the physician, advanced registered nurse practitioner or therapeutically certified optometrist within forty-eight (48) hours. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy on stop orders. A registered nurse or pharmacist shall review each patient's medication profile at least monthly. The prescribing physician shall review the patient's medical profile at least every two (2) months. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications are to be released to patients on discharge only on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed medical or nursing personnel in accordance with ~~[the Medical Practice Act (KRS 311.530 to 311.620)]~~ and ~~[Nurse Practice Act (KRS) Chapter 314]]~~ or by personnel who have completed a state approved training program from a state approved training provider. The administration of oral and topical medicines by certified medicine technicians shall be under the supervision of licensed medical or nursing personnel. Intramuscular injections shall be administered by a licensed nurse or a physician. If intravenous injections are necessary they shall be administered by a licensed physician or registered nurse. Each dose administered shall be recorded in the medical record.

a. The nursing station shall have readily available items necessary for the proper administration of medications.

b. In administering medications, medication cards or other state approved systems shall be used and checked against the physician's orders.

c. Medications prescribed for one (1) patient shall not be administered to any other patient.

d. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician or in a predischarge program under the supervision of a licensed nurse.

e. Medication errors and drug reactions shall be immediately reported to the patient's physician and an entry thereof made in the patient's medical record as well as on an incident report.

f. Up-to-date medication reference texts and sources of information shall be provided for use by the nursing staff (e.g., the American Hospital Formulary Service of the American Society of Hospital Pharmacists, Physicians Desk Reference or other suitable references).

3. Labeling and storing medications.

a. All medications shall be plainly labeled with the patient's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a

separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.

b. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws.

c. Cabinets shall be well lighted and sufficient size to permit storage without crowding.

d. Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations.

e. Medications having an expiration date shall be removed from usage and properly disposed of after such date.

4. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient, the date, time, kind, dosage, balance remaining and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed schedule II controlled substances count daily, and schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with ~~[KRS 218A.230, or]~~ 21 CFR 1307.21 ~~[or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources].~~

5. Use of restraints ~~[or protective devices. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care].~~

a. No ~~[form of]~~ restraints ~~[or protective devices]~~ shall be used except as permitted by KRS 216.515(6). ~~[under written orders of the attending physician.]~~

a. ~~Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.]~~

b. ~~[Physical restraint.]~~ Restraints that require lock and key shall not be used. ~~[In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours.]~~

c. Restraints shall be applied only by appropriately trained personnel [trained in the proper application and observation of this equipment. Restraints shall be checked at least every one-half (1/2) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical record as they are completed. Such records shall document the rationale or justification for the use of the procedure, a description of the specific procedures employed, and the physician's order. Restraints shall be used only as a therapeutic measure to prevent the patient from causing physical harm to self or others].

(d) Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression. ~~[Restraints shall be comfortable and easily removed in case of an emergency.]~~

e. ~~Chemical restraints. Chemical restraints shall not be used as punishment, for the convenience of the staff, as a substitute for programs, or in quantities that interfere with the patient's habilitation.]~~

6. Infection control and communicable diseases.

a. There shall be written infection control policies, which are consistent with the Centers for Disease Control guidelines including:

(i) Policies which address the prevention of disease transmission to and from patients, visitors and employees, including:

- i. Universal blood and body fluid precautions;
- ii. Precautions for infections which can be transmitted by the airborne route; and
- iii. Work restrictions for employees with infectious diseases.
- (ii) Policies which address the cleaning, disinfection, and sterilization methods used for equipment and the environment.
- b. The facility shall provide in-service education programs on the cause, effect, transmission, prevention and elimination of infections for all personnel responsible for direct patient care.
- c. Sharp wastes.
 - (i) Sharp wastes, including needles, scalpels, razors, or other sharp instruments used for patient care procedures, shall be segregated from other wastes and placed in puncture resistant containers immediately after use.
 - (ii) Needles shall not be recapped by hand, purposely bent or broken, or otherwise manipulated by hand.
 - (iii) The containers of sharp wastes shall either be incinerated on or off site, or be rendered nonhazardous by a technology of equal or superior efficacy, which is approved by both the Cabinet for Health Services ~~(Human Resources)~~ and the Natural Resources and Environmental Protection Cabinet.
- d. Disposable waste.
 - (i) All disposable waste shall be placed in suitable bags or closed containers so as to prevent leakage or spillage, and shall be handled, stored, and disposed of in such a way as to minimize direct exposure of personnel to waste materials.
 - (ii) The facility shall establish specific written policies regarding handling and disposal of all wastes.
 - (iii) The following wastes shall be disposed of by incineration, autoclaved before disposal, or carefully poured down a drain connected to a sanitary sewer: blood, blood specimens, used blood tubes, or blood products.
 - (iv) Any wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment regulations ~~(pursuant to 40 CFR 403 and 401 KAR 5:055, Section 9)~~.
- e. Patients infected with the following diseases shall not be admitted to the facility: anthrax, campylobacteriosis, cholera, diphtheria, hepatitis A, measles, pertussis, plague, poliomyelitis, rabies (human), rubella, salmonellosis, shigellosis, typhoid fever, yersiniosis, brucellosis, giardiasis, leprosy, psittacosis, Q fever, tularemia, and typhus.
- f. A facility may admit a (noninfectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.
- g. Patients with active tuberculosis may be admitted to the facility whose isolation facilities and procedures have been specifically approved by the cabinet.
- h. If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients, the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.
- (6) Diagnostic services. The facility shall have provisions for obtaining required clinical laboratory, x-ray and other diagnostic services. Laboratory services may be obtained from a laboratory which is part of a licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any administrative regulations promulgated thereunder. Radiology services shall be obtained from a service licensed or registered pursuant to KRS 211.842 to 211.852 and any administrative regulations promulgated thereunder. If the facility provides its own diagnostic services, the service shall meet the applicable laws and administrative regulations. All diagnostic services shall be provided only on the written order ~~(request)~~ of a physician or advanced registered nurse practitioner as authorized in KRS 314.011(8) and 314.042(8), or therapeutically-certified optometrist as authorized in KRS 320.240(14). The physician or advanced registered nurse practitioner or therapeutically-certified optometrist shall be notified promptly of the test results. Arrangements shall be made for

the transportation of patients, if necessary, to and from the source of service. Simple tests, such as those customarily done by nursing personnel for diabetic patients may be done in the facility. All reports shall be included in the medical record.

(7) Dental services. The facility shall assist patients to obtain regular and emergency dental care. Provision for dental care: patients shall be assisted to obtain regular and emergency dental care. An advisory dentist shall provide consultation, participate in in-service education, recommend policies concerning oral hygiene, and shall be available in case of emergency. The facility, when necessary, shall arrange for the patient to be transported to the dentist's office. Nursing personnel shall assist the patient to carry out the dentist's recommendations.

(8) Social services.

(a) Provision for medically related social needs. The medically related social needs of the patient shall be identified, and services provided to meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge.

1. As a part of the process of evaluating a patient's need for services in a facility and whether the facility can offer appropriate care, emotional and social factors shall be considered in relation to medical and nursing requirements.

2. As soon as possible after admission, there shall be an evaluation, based on medical, nursing and social factors, of the probable duration of the patient's need for care and a plan shall be formulated and recorded for providing such care.

3. Where there are indications that financial help will be needed, arrangements shall be made promptly for referral to an appropriate agency.

4. Social and emotional factors related to the patient's illness, to his response to treatment and to his adjustment to care in the facility shall be recognized and appropriate action shall be taken when necessary to obtain casework services to assist in resolving problems in these areas.

5. Knowledge of the patient's home situation, financial resources, community resources available to assist him, and pertinent information related to his medical and nursing requirements shall be used in making decisions regarding his discharge from the facility.

(b) Confidentiality of social data. Pertinent social data, and information about personal and family problems related to the patient's illness and care shall be made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There shall be appropriate policies and procedures for assuring the confidentiality of such information.

1. The staff member responsible for social services shall participate in clinical staff conferences and confer with the attending physician at intervals during the patient's stay in the facility, and there shall be evidence in the record of such conferences.

2. The staff member and nurses responsible for the patient's care shall confer frequently and there shall be evidence of effective working relationships between them.

3. Records of pertinent social information and of action taken to meet social needs shall be maintained for each patient. Signed social service summaries shall be entered promptly in the patient's medical record for the benefit of all staff involved in the care of the patient.

(9) Patient activities. Activities suited to the needs and interests of patients shall be provided as an important adjunct to the active treatment program and to encourage restoration to self-care and resumption of normal activities. Provision shall be made for purposeful activities which are suited to the needs and interests of patients.

(a) The activity leader shall use, to the fullest possible extent, community, social and recreational opportunities.

(b) Patients shall be encouraged but not forced to participate in such activities. Suitable activities are provided for patients unable to leave their rooms.

(c) Patients who are able and who wish to do so shall be assisted to attend religious services.

(d) Patients' request to see their clergymen shall be honored and space shall be provided for privacy during visits.

(e) Visiting hours shall be flexible and posted to permit and encourage visiting friends and relatives.

(f) The facility shall make available a variety of supplies and equipment adequate to satisfy the individual interests of patients. Examples of such supplies and equipment are: books and magazines, daily newspapers, games, stationery, radio and television and the like.

(10) Transportation.

(a) If transportation of patients is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for patients who use wheel-chairs.

2. An escort or assistant to the driver shall be provided in transporting patients to and from the facility if necessary for the patient's safety.

(b) The facility shall arrange for appropriate transportation in case of medical emergencies.

(11) Residential services.

(a) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this administrative regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and all menus shall be kept on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department, that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories and participation in rounds and conference.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well balanced palatable meals. Records of food purchased for preparation shall be on file for thirty (30) days.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and

supplements shall be given only on the written orders of a physician or advanced registered nurse practitioner as authorized in KRS 314.011(8) and 314.042(8).

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be attractively served at the proper temperatures, and in a form to meet the individual needs. A file of tested recipes, adjusted to appropriate yield shall be maintained. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or left over food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted within a reasonable length of time.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 [(~~Kentucky's Food Service Establishment Act and Food Service Code~~)].

(b) Housekeeping and maintenance services.

1. The facility shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Hand-washing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered as often as is necessary. Laundering of patients' personal clothing shall be the responsibility of the facility unless the patient or the patient's family accepts this responsibility. Patient's personal clothing laundered by or through the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(c) Room accommodations.

1. Each patient shall be provided a standard size bed or the equivalent at least thirty-six (36) inches wide, equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

TIMOTHY L. VENO, Inspector General

JOHN MORSE, Secretary

APPROVED BY AGENCY: June 30, 1997

FILED WITH LRC: July 2, 1997 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 1997, at 9 a.m., at the Health Services Auditorium, 1st Floor, CHR Building. Individuals interested in attending this hearing shall notify this agency in writing by August 14, 1997, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made, in which case the person requesting the transcript shall be responsible for payment. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mae B. Lewis, Cabinet Regulation Coordinator, Office of the Counsel, Cabinet for Health Services, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, Telephone: (502) 564-7900, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ralph Von Derau

(1) Type and number of entities affected: There are presently fourteen (14) licensed nursing homes.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public comments addressing this issue were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public comments addressing this issue were received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: No additional reporting requirements imposed.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No direct or indirect costs should be associated with this program beyond printing this new regulation.

1. First year: \$500 for printing regulation.

2. Continuing costs or savings: No additional costs or savings, since reprinting of regulations is provided for in the continuing budget.

3. Additional factors increasing or decreasing costs: No additional factors.

(b) Reporting and paperwork requirements: No additional paperwork.

(4) Assessment of anticipated effect on state and local revenues: No effect.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: General funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No public comments addressing this issue were received.

(b) Kentucky: No public comments addressing this issue were received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS Chapter 216B mandates that minimum standards be established for licensure.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: These are minimum health care standards intended to protect the public.

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication. No conflict.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions?

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. This is a licensure program and, as such, applies to all licensed services.

CABINET FOR HEALTH SERVICES
Office of Inspector General
Division of Licensing and Regulation
(Amendment)

902 KAR 20:051. Operation and services; intermediate care.

RELATES TO: KRS 216B.010 to 216B.130 ~~[216B.131]~~, 216B.990
 STATUTORY AUTHORITY: KRS 216B.042, 216B.105, 314.011(8), 314.042(8), 320.240(14), EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 and 216B.105 mandate that the Cabinet for Health Services ~~[Human Resources]~~ regulate health facilities and health services. This administrative regulation establishes licensure requirements for the operation of and services provided by intermediate care facilities. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Office of Inspector General and its programs under the Cabinet for Health Services.

Section 1. Definitions. (1) "Activities of daily living" means activities of self-help (e.g., being able to feed, bathe and/or dress oneself), communication (e.g., being able to place phone calls, write letters and understanding instructions) and socialization (e.g., being able to shop, being considerate of others, working with others and participating in activities).

(2) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(3) ~~["Beard" means the Commission on Health Economics Control in Kentucky.~~

(4) "Facility" means an intermediate care facility.

(4) ~~(5)~~ "License" means an authorization issued by the cabinet for the purpose of operating an intermediate care facility and offering intermediate care services.

(5) ~~(6)~~ "PRN medications" means medications administered as needed.

~~(7) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.]~~

(6) ~~(8)~~ "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a master's degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(7) ~~(9)~~ "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

Section 2. Scope of Operations and Services. Intermediate care facilities are establishments with permanent facilities including inpatient beds. Services provided include twenty-four (24) hour supervision of patients, services including physician, nursing, pharmaceutical, personal care, activities and residential services. Patients in an intermediate care facility must have a physical or mental condition that requires intermittent nursing services along with continuous supervision of the activities of daily living.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator.

(a) All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence. The administrator shall not be the nursing services supervisor in a facility with more than sixty (60) beds.

(b) The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of the patient. The contract shall be in writing.

(3) Administrative records.

(a) The facility shall maintain a bound, permanent, chronological patient registry showing date of admission, name of patient, and date of discharge.

(b) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) Menu and food purchase records shall be maintained.

(d) A written report of any incident or accident involving a patient (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator or nursing service supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.

(4) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Patient care and services to include physician, nursing, pharmaceutical (including medication stop orders policy), and residential services.

(b) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children ~~[to the Department for Human Resources]~~ pursuant to KRS Chapters 209 and 620.

(c) Use of restraints. The facility shall have a written policy that addresses the use of restraints and a mechanism for monitoring and controlling their use.

(d) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(5) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(6) Admission.

(a) Patients shall be admitted only upon the referral of a physician. The facility shall admit only persons who have a physical or mental condition which requires intermittent nursing services and continuous supervision of activities of daily living. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. Within seventy-two (72) hours after admission the facility shall obtain a medical evaluation from the patient's physician including current medical findings, medical history and physical examination. The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital or long-term facility if done within fourteen (14) days prior to admission.

(c) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility including fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(d) The facility shall provide and maintain a system for identifying each patient's personal property and facilities for safekeeping of his declared valuables. Each patient's clothing and other property shall be reserved for his own use.

(7) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(8) Transfer and discharge. The facility shall comply with the requirements of 900 KAR 2:050 when transferring or discharging residents. ~~[Transfer procedures and agreements.]~~

(a) The facility shall have written transfer procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arrange for appropriate and safe transportation.

(b) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility, or services shall be contracted for from another community resource.

(c) When changes and progress occur which would enable the patient to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for patients to be transferred to facilities providing appropriate services.

(d) Except in an emergency, the patient, his next of kin, or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(e) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(f) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(9) Tuberculosis testing. All employees and patients shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200, Tuberculosis testing in long term care facilities.

(10) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel, to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration where required by law, health records, records of in-service training and ongoing education, and the employee's name, address and social security number.

(c) Staffing requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients and the amount and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by this administrative regulation.

2. When the staff to [4] patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.

3. A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies.

4. Volunteers shall not be counted to make up minimum staffing requirements.

5. Supervision of nursing services shall be by a registered nurse or licensed practical nurse employed on the day shift seven (7) days per week. The supervisor shall have training in rehabilitative nursing. When a licensed practical nurse serves as the supervisor, consultation shall be provided by a registered nurse at regular intervals, not less than four (4) hours weekly. The responsibilities of the nursing services supervisor shall include:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel.

b. Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.

c. Assigning and supervising all levels of nursing care.

d. Participating in planning and budgeting for nursing care.

e. Participating in the development and implementation of patient care policies.

f. Coordinating nursing services with other patient care services.

g. Participating in the screening of prospective patients in terms of required nursing services and nursing skills available.

h. Assuring that a written monthly assessment of the patient's general condition is completed.

i. Assuring that the establishment, review and modification of nursing care plans for each patient is done by licensed nursing personnel.

j. Assuring that all medications are administered by licensed personnel or by other personnel who have completed a state-approved training program.

k. Assuring that a monthly review of each patient's medications is completed and notifying the physician when changes are appropriate.

6. The facility shall employ a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

7. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and on duty a minimum of thirty-five (35) hours each week.

8. Each facility shall designate a person for the following areas who will be responsible for:

a. Medical records;

b. Arranging for social services; and

c. Developing and implementing the activities program and therapeutic recreation.

9. Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and procedures of the facility.

(d) Health requirements. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(e) Orientation program. The facility shall conduct an orientation program for all new employees to include review of all facility policies (that relate to the duties of their respective jobs), services and emergency and disaster procedures.

(f) In-service training.

1. All employees shall receive in-service training and ongoing education to correspond with the duties of their respective jobs.

2. All nursing personnel shall receive in-service or continuing education programs at least quarterly.

(11) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including the patient's name, address and

social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation by a physician including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, skilled nursing facility if done within fourteen (14) days prior to admission.)

3. ~~[The physician's]~~ Dated and signed orders of prescribing physician or advanced registered nurse practitioner or therapeutically-certified optometrist for medication, diet, and therapeutic services.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication dosage, name of prescribing physician or advanced registered nurse practitioner or therapeutically-certified optometrist and name of person who administered the medication.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, mode and frequency of PRN medications administered, condition necessitating administration of PRN medication, reaction following PRN medication, visits by physician and phone calls to the physician, medically prescribed diets and preventive, maintenance or rehabilitative nursing measures.

8. Written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services (if applicable).

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or, in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

Section 4. Provision of Services. (1) General requirements.

(a) Patient care equipment. There shall be a sufficient quantity of patient care equipment of satisfactory design and in good condition to carry out established patient care procedures. The equipment shall include:

1. Wheelchairs with brakes;
2. Walkers;
3. Bedside rails;
4. Bedpans and urinals (permanent or disposable);
5. Emesis basins and wash basins (permanent or disposable);
6. Footstools;
7. Bedside commodes;
8. Foot cradles;
9. Foot boards;
10. Under-the-mattress bed boards;
11. Trapeze frames;
12. Transfer board; and
13. An autoclave for sterilization of nursing equipment and supplies or an equivalent alternate method of sterilization.

(b) Infection control and communicable diseases.

1. There shall be written infection control policies, which are consistent with the Centers for Disease Control guidelines including:

a. Policies which address the prevention of disease transmission to and from patients, visitors and employees, including:

- (i) Universal blood and body fluid precautions;
- (ii) Precautions for infections which can be transmitted by the airborne route; and

(iii) Work restrictions for employees with infectious diseases.

b. Policies which address the cleaning, disinfection, and sterilization methods used for equipment and the environment.

2. The facility shall provide in-service education programs on the cause, effect, transmission, prevention and elimination of infections for all personnel responsible for direct patient care.

3. Sharp wastes.

a. Sharp wastes, including needles, scalpels, razors, or other sharp instruments used for patient care procedures, shall be segregated from other wastes and placed in puncture resistant containers immediately after use.

b. Needles shall not be recapped by hand, purposely bent or broken, or otherwise manipulated by hand.

c. The containers of sharp wastes shall either be incinerated on or off site, or be rendered nonhazardous by a technology of equal or superior efficacy, which is approved by both the Cabinet for Health Services ~~(Human Resources)~~ and the Natural Resources and Environmental Protection Cabinet.

4. Disposable waste.

a. All disposable waste shall be placed in suitable bags or closed containers so as to prevent leakage or spillage, and shall be handled, stored, and disposed of in such a way as to minimize direct exposure of personnel to waste materials.

b. The facility shall establish specific written policies regarding handling and disposal of all wastes.

c. The following wastes shall be disposed of by incineration, autoclaved before disposal, or carefully poured down a drain connected to a sanitary sewer: blood, blood specimens, used blood tubes, or blood products.

d. Any wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment regulations ~~(pursuant to 40 CFR 403 and 401 KAP 5.055, Section 9)~~.

5. Patients infected with the following diseases shall not be admitted to the facility unless the patient's attending physician certifies in writing that the condition of the patient is not communicable to others in the long-term care environment: anthrax, campylobacteriosis, cholera, diphtheria, hepatitis A, measles, pertussis, plague, poliomyelitis, rabies (human), rubella, salmonellosis, shigellosis, typhoid fever, yersiniosis, brucellosis, giardiasis, leprosy, psittacosis, Q fever, tularemia, and typhus. If an attending physician is in doubt regarding the communicability of a patient's condition, he may contact the Department for Health Services.

6. A facility may admit a noninfectious tuberculosis patient under continuing medical supervision for his tuberculosis disease.

7. Patients with active tuberculosis may be admitted to the facility whose isolation facilities and procedures have been specifically approved by the cabinet.

8. If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

(c) Use of restraints ~~[or protective devices]~~.

1. ~~[If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care.]~~

2. ~~[No form of restraints [or protective devices] shall be used except as permitted by KRS 216.515(6). [Upon written orders of the attending physician.]~~

~~a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.~~

~~b. Physical restraint.]~~

~~2. Restraints that require lock and key shall not be used. [In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours.]~~

3. Restraints shall be applied only by appropriately trained personnel [trained in the proper application and observation of this equipment. Restraints shall be checked at least every one-half (1/2) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical record as they are completed. Such records shall document the rationale or justification for the use of the procedure, a description of the specific procedures employed, and the physician's order. Restraints shall be used only as a therapeutic measure to prevent the patient from causing physical harm to self or others].

4. Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression. ~~[Restraints shall be comfortable and easily removed in case of an emergency.]~~

~~c. Chemical restraints. Chemical restraints shall not be used as punishment, for the convenience of the staff, as a substitute for programs, or in quantities that interfere with the patient's habilitation.]~~

(2) Physician services. All patients shall be under the medical supervision of a licensed physician. These services shall include:

(a) Physician's visit for medical evaluation as often as necessary and in no case less often than every sixty (60) days, unless justified and documented by the attending physician in the patient's medical report.

(b) Physician services for medical emergencies available on a twenty-four (24) hour, seven (7) days-a-week basis.

(3) Nursing services. Nursing services shall include:

(a) The establishment of a nursing care plan for each patient. Each plan shall be reviewed and modified as necessary, or at least quarterly. Each plan shall include goals and nursing care needs;

(b) Rehabilitative nursing care to achieve and maintain the highest degree of function, self-care and independence. Rehabilitative measures shall be practiced on a twenty-four (24) hour, seven (7) day week basis. Those procedures requiring medical approval shall be ordered by the attending physician. Rehabilitative measures shall include:

1. Positioning and turning. Nursing personnel shall encourage and assist patients in maintaining good body alignment while standing, sitting, or lying in bed.

2. Exercises. Nursing personnel shall assist patients in maintaining maximum joint range of motion or active range of motion.

3. Bowel and bladder training. Nursing personnel shall make every effort to train incontinent patients to gain bowel and bladder control.

4. Training in activities of daily living. Nursing personnel shall encourage and when necessary teach patients to function at their maximum level in appropriate activities of daily living for as long as, and to the degree that, they are able.

5. Ambulation. Nursing personnel shall assist and encourage patients with daily ambulation unless otherwise ordered by the physician.

(c) Administration of medications including oral, rectal, hypodermic, and intramuscular;

(d) Written monthly assessment of the patient's general condition by licensed nursing personnel;

(e) Treatments such as: enemas, irrigations, catheterizations, applications of dressings or bandages, supervision of special diets;

(f) The recording of any changes, as they occur, in the patient's condition, actions, responses, attitudes, appetite, etc.

(g) Implementing a regular program to prevent decubiti with emphasis on the following:

1. Procedures to maintain cleanliness of the patient, his clothes and linens shall be followed each time the bed or the clothing is soiled. Rubber, plastic, or other type of linen protectors shall be properly cleaned and completely covered to prevent direct contact with the patient.

2. Special effort shall be made to assist the patient in being up and out of bed as much as his condition permits, unless medically

contraindicated. If the patient cannot move himself, he shall have his position changed as often as necessary but not less than every two (2) hours.

(4) Pharmaceutical services.

(a) The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering drugs and biologicals, developed with the advice of a licensed pharmacist or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the pharmacy department.

(c) If the facility does not have a pharmacy department, it shall have provision for promptly obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(e) Medication requirement and services.

1. ~~[Conformance with physician's orders.]~~ All medications administered to patients shall be ordered in writing by the prescribing physician or advanced registered nurse practitioner as authorized in KRS 314.011(8) and 314.042(8), or therapeutically-certified optometrist as authorized in KRS 320.240(14). Oral orders shall be given only to a licensed nurse or pharmacist, immediately reduced to writing, and signed. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy on stop orders. A registered nurse or the pharmacist shall review each patient's medical profile monthly. Medications shall be reviewed at least quarterly by the attending or staff physician. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications shall be released to patients on discharge or visits only after being labeled appropriately and on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed nurses or personnel who have completed a state-approved training program, from a state approved training provider. Each dose administered shall be recorded in the medical record. Intramuscular injections shall be administered by a licensed nurse or a physician. If intravenous injections are necessary they shall be administered by a licensed physician or registered nurse.

a. The nursing station shall have items required for the proper administration of medications.

b. Medications prescribed for one (1) patient shall not be administered to any other patient.

c. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician and a predischARGE program under the supervision of a licensed nurse.

d. Medication errors and drug reactions shall be immediately reported to the patient's physician and pharmacist and an entry thereof made in the patient's medical record as well as on an incident report.

3. The facility shall provide up-to-date medication reference texts for use by the nursing staff (e.g., Physician's Desk Reference).

4. Labeling and storing medications. All medications shall be plainly labeled with the patient's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for

giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.

5. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient; the date, time, kind, dosage, balance remaining and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed Schedule II controlled substances count daily, and Schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with ~~KRS 218A.230, or~~ 21 CFR 1307.21, ~~or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources.~~

(5) Personal care services.

(a) All facilities shall provide services to assist patients to achieve and maintain good personal hygiene including the level of assistance necessary with:

1. Bathing of the body to maintain clean skin and freedom from offensive odors. In addition to assistance with bathing, the facility shall provide soap, clean towels, and wash cloths for each patient. Toilet articles such as brushes and combs shall not be used in common.

2. Shaving.

3. Cleaning and trimming of fingernails and toenails.

4. Cleaning of the mouth and teeth to maintain good oral hygiene as well as care of the lips to prevent dryness and cracking. All patients shall be provided with tooth brushes, a dentifrice, and denture containers, when applicable.

5. Washing, grooming, and cutting of hair.

(b) The staff shall encourage and assist the patients to dress in their own street clothing (unless otherwise indicated by the physician).

(6) Dental services. The facility shall assist patients in obtaining dental services. Conditions necessitating dental services shall be noted and such dental procedures and services provided shall be recorded in the patient's record.

(7) Social services. The facility shall provide or arrange for social services as needed by the patient.

(a) Social services shall be integrated with other elements of the plan of care.

(b) A plan for such care shall be recorded in the patient's record and periodically evaluated in conjunction with the patient's total plan of care.

(c) Social services records shall be maintained as an integral part of case record maintained on each patient.

(8) Activities and therapeutic recreation.

(a) All facilities shall provide a program to stimulate physical and mental abilities to the fullest extent, to encourage and develop a sense of usefulness and self respect and to prevent, inhibit or correct the development of symptoms of physical and mental regression due to illness or old age. The program shall provide sufficient variety to meet the needs of the various types of patients in the facility. When possible, the patient shall be included in the planning of activities.

(b) All facilities shall meet the following program requirements:

1. Staff. A person designated by the administrator shall be responsible for the program.

2. A program shall be developed for each patient and shall be incorporated in the patient's plan of care and revised according to the

patient's needs. Changes in his response to the program shall be recorded in the medical record.

3. There shall be a planned and supervised activity period each day. The schedule shall be current and posted.

4. The program shall be planned for group and individual activities, both within and outside of the facility, weather permitting.

5. The person responsible for activities shall maintain a current list of patients on which precautions are noted regarding a patient's condition that might restrict or modify his participation in the program.

6. A living or recreation room and outdoor recreational space shall be provided for patients and their guests.

7. The facility shall provide supplies and equipment for the activities program.

8. Reading materials, radios, games and TV sets shall be provided for the patients.

9. The program may include religious activities for each patient if it is the desire of the patient to participate. Requests from a patient to be seen by a clergyman shall be acted upon as soon as possible, and an area of private consultation shall be made available.

10. The facility shall allow the patient to leave the facility to visit, shop, attend church, or other social activities provided this does not endanger his health or safety.

(9) Transportation.

(a) If transportation of patients is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for patients who use wheel-chairs.

2. An escort or assistant to the driver shall be provided in transporting patients to and from the facility if necessary for the patient's safety.

(b) The facility shall arrange for appropriate transportation in case of medical emergencies.

(10) Residential care services. All facilities shall provide residential care services to all patients including: room accommodations, housekeeping and maintenance services, and dietary services. All facilities shall meet the following requirements relating to the provision of residential care services.

(a) Room accommodations.

1. Each patient shall be provided a standard size bed at least thirty-six (36) inches wide, equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

(b) Housekeeping and maintenance services.

1. The facility shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Hand-washing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered by the facility as often as is necessary. Patients' personal clothing shall be laundered by the facility unless the patient or the patient's family accepts this responsibility. Patients capable of laundering their own personal clothing and wishing to do so may, instead, be provided the facilities to do so. Patient's personal clothing laundered by the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(c) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this administrative regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned

duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and kept on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department, that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories and participation in rounds and conferences.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well balanced palatable meals.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and supplements shall be given only on the written orders of a physician or advanced registered nurse practitioner as authorized in KRS 314.011(8) and 314.042(8).

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be attractively served at the proper temperatures, and in a form to meet the individual needs. A file of tested recipes, adjusted to appropriate yield shall be maintained. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or leftover food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 ~~[(Kentucky's Food Service Establishment Act and Food Service Code)].~~

Section 5. Separability. If any clause, sentence, paragraph, section or part of these administrative regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof, directly involved in the controversy in which the judgment was rendered.

ADMINISTRATIVE REGISTER - 424

TIMOTHY L. VENNO, Inspector General

JOHN MORSE, Secretary

APPROVED BY AGENCY: June 30, 1997

FILED WITH LRC: July 2, 1997 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 1997, at 9 a.m., at the Health Services Auditorium, 1st Floor, CHR Building. Individuals interested in attending this hearing shall notify this agency in writing by August 14, 1997, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made, in which case the person requesting the transcript shall be responsible for payment. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mae B. Lewis, Cabinet Regulation Coordinator, Office of the Counsel, Cabinet for Health Services, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, Telephone: (502) 564-7900, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ralph Von Derau

(1) Type and number of entities affected: There are presently seven (7) licensed intermediate care facilities.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public comments addressing this issue were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public comments addressing this issue were received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: No additional reporting requirements imposed.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No direct or indirect costs should be associated with this program beyond printing this new regulation.

1. First year: \$500 for printing regulation.

2. Continuing costs or savings: No additional costs or savings, since reprinting of regulations is provided for in the continuing budget.

3. Additional factors increasing or decreasing costs: No additional factors.

(b) Reporting and paperwork requirements: No additional paperwork.

(4) Assessment of anticipated effect on state and local revenues: No effect.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: General funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No public comments addressing this issue were received.

(b) Kentucky: No public comments addressing this issue were received.

(7) Assessment of alternative methods; reasons why alternatives

were rejected: KRS Chapter 216B mandates that minimum standards be established for licensure.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: These are minimum health care standards intended to protect the public.

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication. No conflict.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions?

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. This is a licensure program and, as such, applies to all licensed services.

NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, JULY 15, 1997

GENERAL GOVERNMENT CABINET
Kentucky Board of Nursing
(New Administrative Regulation)

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements.

RELATES TO: KRS 314.142

STATUTORY AUTHORITY: KRS 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.142 creates the Sexual Assault Nurse Examiner Program and requires the Board of Nursing to implement it.

Section 1. Definition. "SANE course" means a formal, organized course of instruction that is designed to prepare registered nurses to perform forensic evaluation of sexual assault victims fourteen (14) years of age or older and to promote and preserve their biological, psychological and social health. A SANE course shall comply with the board's administrative standards as stated herein.

Section 2. SANE Course Approval Application. On the form "Application for Initial or Continued SANE Course Approval", the applicant for approval of a SANE course shall submit evidence of:

(1) Nurse administrator of SANE course. A registered nurse, with current, active Kentucky licensure, a baccalaureate or higher degree in nursing, and experience in adult and nursing education shall be administratively responsible for assessment, planning, development, implementation, and evaluation of the SANE course.

(2) Faculty qualifications. The course shall be taught by multidisciplinary faculty with documented expertise in the subject matter. The name, title and credentials identifying the educational and professional qualifications for each instructor shall be provided.

(3) Course syllabus. The syllabus shall include:

(a) Course prerequisites, requirements and fees.

(b) Course outcomes. The outcomes shall provide statements of observable competencies, which when taken as a whole, present a clear description of the entry level behaviors to be achieved by the learner.

(c) Unit objectives. Individual unit objectives shall be stated in operational/behavioral terms with supportive content identified.

(d) Content. The content shall be described in detailed outline format with corresponding lesson plans and time frame. The content shall be related to, and consistent with, the unit objectives, and support achievement of expected course outcomes.

1. The SANE course shall be a minimum of forty (40) hours of didactic instruction in length. Clinical practice experiences are additional.

2. Clinical practice. The clinical portion of the course shall include supervised clinical practice, whereby students complete ten (10) pelvic and rectal examinations to include both male and female, and two (2) forensic examinations of sexual assault victims.

3. The didactic portion of the course shall include, but not be limited to, instruction in the following topics related to forensic evaluation of sexual assault victims:

a. The role and responsibilities of sexual assault nurse examiners, health care professionals, rape crisis, law enforcement and judicial system personnel;

b. Application of the statewide medical protocol relating to the forensic and medical examination of victims of sexual assault pursuant to KRS 216B.400(2);

c. Principles and techniques of evidence collection and preservation and chain of custody;

d. Assessment of victim injuries;

e. Physician consultation and referral;

f. Medicolegal documentation;

g. Victim's bill of rights, KRS 421.500 et seq.;

h. Crisis intervention;

i. Dynamics of sexual assault;

j. Testifying in court;

k. Overview of the criminal justice system and related legal issues; and

l. Available community resources including, but not limited to, rape crisis centers.

(e) Teaching methods. The activities of both instructor and learner shall be specified in relation to content outline. These activities shall be congruent with stated course objectives and content, and reflect application of adult learning principles.

(f) Evaluation. There shall be clearly defined methods for evaluating the learner's achievement of course outcomes. There shall also be a process for annual course evaluation by students, providers, faculty, and administration.

(g) Instructional/reference materials. All required instructional materials and reference shall be identified.

(4) Completion requirements. Requirements for successful completion of the SANE course shall be clearly specified and shall include demonstration of clinical competency. A statement of policy regarding candidates who fail to successfully complete the course shall be included.

Section 3. (1) Contact hour credit for continuing education. The SANE course shall be approved for contact hour credit which may be applied to licensure requirements.

(2) Approval period. Board approval for a SANE course shall be granted for a four (4) year period.

(3) Records shall be maintained for a period of five (5) years, including the following:

(a) Provider name, date and site of the course; and

(b) Participant roster, with a minimum of names, Social Security numbers and license numbers.

(4) Participants shall receive a certificate of completion that documents the following:

(a) Name of participant;

(b) Title of course, date and location;

(c) Provider's name; and

(d) Name and signature of authorized provider representative.

Section 4. Continued Board Approval of a SANE Course. (1) Applications for continued approval of a SANE course shall be submitted at least three (3) months prior to the end of the current approval period.

(2) A SANE course syllabus shall be submitted with the "Application for Initial or Continued SANE Course Approval".

(3) Continued approval shall be based on the past approval period performance and compliance with board standards.

Section 5. The board may deny, revoke or suspend the approval status of any SANE course for cause.

Section 6. Appeal. If a SANE course administrator is dissatisfied with a board decision concerning approval and wishes a review of the decision, the following procedure shall be followed:

(1) A written request for the review must be filed with the board within thirty (30) days after the date of notification of the board action which the SANE course administrator contests.

(2) The board, or its designee, shall conduct a review in which the SANE course administrator may appear in person and with counsel

to present reasons why the board's decision should be set aside or modified.

Section 7. Requirements for Sexual Assault Nurse Examiner (SANE) Credential. (1) The applicant for the SANE credential shall:

(a) Hold a current, active registered nurse license in Kentucky.
(b) Have completed a board approved SANE educational course or a comparable course. The board or its designee shall evaluate the applicant's course to determine its course comparability. The board or its designee shall advise an applicant if the course is not comparable and specify what additional components shall be completed to allow the applicant to be credentialed.

(c) Applicants who have completed a comparable course shall complete that portion of a SANE course of at least five (5) hours which shall include, but not be limited to, those topics specified in Section 2(3)(d), 3a, b, c, g, k, and l of this administrative regulation if not included in the comparable course. The Office of the Attorney General may offer in cooperation with a board approved continuing education provider course of at least five (5) hours to include those topics specified in this subsection.

(d) Complete the "Application for Initial SANE Credential".

(e) Pay the fee as set in 201 KAR 20:240.

(2) Upon completion of the application process, the board shall issue the SANE credential for a biennial period of November 1 through October 31 of even numbered years.

Section 8. Renewal. (1) To renew the SANE credential for the next biennial period, each sexual assault nurse examiner shall complete at least five (5) contact hours of continuing education related to the role of the sexual assault nurse examiner within each continuing education earning period. Providers of a board approved SANE course may also offer continuing education related to the role of the sexual assault nurse examiner.

(2) Upon completion of the required continuing education, completion of the "Application for Renewal of SANE Credential" and payment of the fee as set in 201 KAR 20:240, the SANE credential shall be renewed at the same time the registered nurse license is renewed.

(3) The five (5) contact hours may count toward the required thirty (30) contact hours of continuing education for renewal of the registered nurse license.

(4) Failure to meet the five (5) contact hour continuing education requirement shall cause the SANE credential to lapse.

Section 9. Reinstatement. (1) If the SANE credential has lapsed for a period of less than two (2) consecutive registered nurse licensure periods, then the individual may reinstate the credential by submitting the "Application for Reinstatement of the SANE Credential", pay the fee as set forth in 201 KAR 20:240, and submit evidence of earning the continuing education requirement for the number of registered nurse licensure periods since the SANE credential lapsed.

(2) If the SANE credential has lapsed for more than two (2) consecutive licensure periods, then the nurse shall complete a SANE course prior to reinstatement.

Section 10. Incorporation by Reference. The following forms are incorporated by reference and may be reviewed, copied or inspected at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8:30 a.m. through 4:30 p.m.

(1) "Application for Initial or Continued SANE Course Approval" (6/97);

(2) "Application for Initial SANE Credential" (6/97);

(3) "Application for Renewal of SANE Credential" (6/97); and

(4) "Application for Reinstatement of the SANE Credential" (6/97).

LINDA J. THOMAS, President

APPROVED BY AGENCY: July 1, 1997

FILED WITH LRC: July 8, 1997 at 1 p.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on August 25, 1997 at 9 a.m. (EDT) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 18, 1997, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 329-7000.

REGULATORY IMPACT ANALYSIS

Contact Person: Nathan Goldman, General Counsel

(1) Type and number of entities affected: Registered nurses who seek to become sexual assault nurse examiners. Number unknown.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Unknown costs to administer the program. Fees are charged.

2. Continuing costs or savings: Unknown costs to administer the program. Fees are charged.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Application process and records management.

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees from applicants.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: N/A

(b) Kentucky: N/A

(7) Assessment of alternative methods; reasons why alternatives were rejected: The program is statutorily mandated.

(8) Assessment of expected benefits: Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Specially educated registered nurses, to be known as sexual assault nurse examiners, will be available to conduct forensic examinations of victims of sexual offenses. State whether a detrimental effect on environment and public health would result if not implemented: N/A

(c) If detrimental effect would result, explain detrimental effect:
N/A

(9) Identify any statute, administrative regulation, or governmental policy which may be in conflict, overlapping or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not applicable.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(New Administrative Regulation)

301 KAR 2:082. Importing and holding exotic wildlife.

RELATES TO: KRS 150.010, 150.180, 150.280, 150.290, 150.305, 150.320, 150.330, 150.360, 150.370, 150.470
STATUTORY AUTHORITY: KRS, 150.025(1), 150.180(6), 150.280

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.280 authorizes the department to promulgate administrative regulations governing the holding of protected wildlife; KRS 150.180(6) requires a person transporting live wildlife into Kentucky to obtain a permit from the department. This administrative regulation establishes the procedure for obtaining a transportation permit for exotic wildlife, prohibits the importation or holding of exotic species with the potential to damage native ecosystems, places restriction on importing species that are potentially dangerous to human health and safety, and lists exotic species not classified as wildlife.

Section 1. Definitions. (1) "Circus" means a traveling public entertainment show consisting of acrobats, clowns, and trained animals, but shall not include a show including wrestling bears or other direct contact between members of the public and inherently dangerous animals.

(2) "Exotic wildlife" means living terrestrial wildlife species which:

(a) Have never existed in the wild in Kentucky; or

(b) Have been extirpated from the state and could not be reasonably expected to survive in the wild if introduced.

(3) "Protected wildlife" is defined by KRS 150.010(25).

(4) "Wildlife" is defined by KRS 150.010(41).

Section 2. (1) Except as specified in subsection (2) of this section, a person shall not import or possess:

(a) Suricate or slender-tailed meerkat (Genus *Suricata*);

(b) Flying fox or fruit bat (Genus *Pteropus*);

(c) San Juan Rabbit;

(d) Wild European rabbit (Genus *Oryctolagus*);

(e) Mulimammate rat (Subgenus *Mastomys*);

(f) Nutria (*Myocastor coypus*);

(g) Monk or Quaker parakeet (*Myiopsitta monachus*);

(h) Cuckoo (Family *Cuculidae*), except native species;

(i) Sky lark (*Alauda arvensis*);

(j) European blackbird (*Turdus merula*);

(k) Mistle thrush (*Turdus viscivorus*);

(l) Fieldfare (*Turdus pilaris*);

(m) Song thrush (*Turdus philomelos*);

(n) White eyes (Genus *Zosterops*);

(o) Cape sparrow (*Ploceus philippinus*);

(p) Baya weaver (*Ploceus baya*);

(q) Madagascar weaver (*Foudia madagascariensis*);

(r) Weaver finches (Genus *Passer*), except *Passer domesticus*;

(s) Dioch or red-bellied quelea (*Quelea quelea*);

(t) Cowbirds (Genus *Molothrus*), except native species;

(u) Blackbirds (Genus *Agelaius*), except native species;

(v) Yellowhammer (*Emberiza citrinella*);

(w) Java sparrow (*Padda oryzivora*);

(x) Hawaiian rice bird or spotted munia (*Lonchura punctulata nitoria*);

(y) Starlings (Family *Sturnidae*) except *Sturnus vulgaris* and hill mynahs (*Gracula religiosa*);

(z) Pink starling or rosy pastor (*Sturnus roseus*);

(aa) Mute swan (*Cygnus olor*);

(bb) Giant or marine toad (*Bufo marinus*);

(cc) Tongueless or African clawed frog (*Arenopus laevis*);

(dd) A member of the following families:

1. Suidae (pigs or hogs), except for domestic swine;

2. Viverridae (civets, genets, lingsangs, mongooses and fossas);

3. Tayassuidae (Peccaries and javelinas).

(2) Under the provisions of KRS 150.180(6) the commissioner may allow the importation or possession of the species listed in subsection (1) of this section for legitimate scientific or educational purposes by:

(a) A zoo that is:

1. A member of the American Zoo and Aquarium Association; or

2. Designated as the official zoo of a municipality.

(b) A government agency;

(c) A college or university; or

(d) A similar educational or research institution.

Section 3. (1) A person shall obtain a transportation permit from the department before importing exotic wildlife.

(2) Application for transportation permits shall be:

(a) Made on forms provided by the department; and

(b) Accompanied by:

1. A veterinarian's certificate that the wildlife does not exhibit symptoms of disease;

2. A copy of a bill of sale or other proof that the wildlife was obtained legally; and

3. Unless the applicant is an institution listed in Section 2(2) of this administrative regulation, a signed statement from the local authority having jurisdiction over where the animal will be kept which certifies that local ordinances do not prohibit the possession of the following dangerous exotic species:

a. African buffalo (*Syntherisma caffer*);

b. Hippopotamus (*Hippopotamus amphibius*);

c. Hyenas (family *Hyaenidae*), all species except aardwolves (*Proteles cristatus*);

d. Honey badger or ratel (*Mellivora capensis*);

e. Old world badger (*Meles meles*);

f. Lions, jaguars, leopards or tigers (Genus *Panthera*);

g. Clouded leopard (*Neofelis nebulosa*);

h. Cheetah (*Acinonyx jubatus*);

i. Elephants (family *Elephantidae*);

j. Rhinoceroses (family *Rhinocerotidae*);

k. Gibbons or siamangs (family *Hylobatidae*);

l. Orangutans, chimpanzees, or gorillas (Family *Pongidae*);

m. Baboons, drills or mandrills (Genus *Papio*);

n. Macaques (Genus *Macaca*);

o. Gelada baboon (*Theropithecus gelada*);

p. Gavials (Family *Gavialidae*);

q. Crocodiles (Family *Crocodylidae*);

r. Alligators or caimans (Family *Alligatoridae*);

s. Sea snakes (Family *Hydrophidae*);

t. Cobras or coral snakes (Family *Elapidae*);

u. Adders or vipers (Family *Viperidae*);

v. Venomous rear-fanged species (Family *Colubridae*);

w. Gila monsters or beaded lizards (Family *Helodermatidae*);

x. Komodo dragon (*Varanus komodoensis*);

y. The following constricting snakes over eight (8) feet in length:

(i) Boa constrictor (*Boa constrictor*) all subspecies;

(ii) Anaconda (*Eunectes murinus*);

- (iii) Indian python (*Python molurus*);
- (iv) Reticulated python (*Python reticulatus*); or
- (v) Rock Python (*Python sebae*);
- z. Bears (Family Ursidae);
- aa. Wolf or wolf hybrids of over twenty-five (25) percent wolf; or
- bb. Cougar or mountain lion (*Felis concolor*).

(3) Failure to provide accurate, truthful and complete information on the application form shall result in immediate withdrawal or revocation of the permit and confiscation of wildlife imported under the permit.

Section 4. For reasons of human health or safety, or for the abatement or control of a nuisance, a county or city government may prohibit the holding of the dangerous exotic wildlife listed in Section 3 of this administrative regulation.

Section 5. A person shall not release exotic wildlife into the wild.

Section 6. Unless otherwise protected by state or federal law, exotic wildlife:

- (1) Shall not be classed as protected wildlife; and
- (2) Shall not require a permit from the department for possession.

Section 7. The following classes of animals shall not be considered wildlife and shall not require permits from the department for importation or possession:

- (1) Breeds and varieties of goats derived from the wild goat or bezoar (*Capra aegagrus*);
- (2) Domestic swine, except free-living or feral wild boars or wild swine;
- (3) Llama (*Lama glama*);
- (4) Alpaca (*Lama pacos*);
- (5) Domestic Yak (*Bos grunniens*);
- (6) Camels (*Camelus bactrianus* and *Camelus dromedarius*);
- (7) Hamsters (*Mesocricetus* spp.);
- (8) Domesticated races of mink (*Mustela vison*), if:
 - (a) Adults are heavier than 1.15 kilograms; or
 - (b) The fur color can be distinguished from wild mink;
- (9) Guinea pigs (*Cavia porcellus*);
- (10) Gerbils (*Meriones unguiculatus*);
- (11) Chinchillas (*Chinchilla laniger*);
- (12) Domesticated races of rats (*Rattus norvegicus* or *Rattus rattus*) or mice (*Mus musculus*);
- (13) Domesticated races of the European rabbit (*Oryctolagus cuniculus*), except:
 - (a) European rabbit *ferae naturae*; or
 - (b) The San Juan rabbit;
- (14) Domesticated races of turkeys (*Meleagris gallopavo*) recognized by the American Poultry Association and the U.S. Department of Agriculture; but shall not include captive held or bred wild turkeys.
- (15) Domestic races of ducks and geese (*Anatidae*) distinguishable morphologically from wild ducks or geese;
- (16) Feral Pigeons (*Columba domestica* or *Columba livia*) or domesticated races of pigeons;
- (17) Guinea fowl (*Murida megeagris*);
- (18) Peafowl (*Pavo cristatus*);
- (19) Ratites, as defined by KRS 247.870; or
- (20) American bison.

Section 8. The provisions of this administrative regulation shall not be enforced until after January 1, 1998.

C. THOMAS BENNETT, Commissioner
ANN R. LATTA, Secretary
MIKE BOATWRIGHT, Chairman

APPROVED BY AGENCY: June 13, 1997

FILED WITH LRC: July 15, 1997 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 28, 1997 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by August 21, 1997, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: John Wilson, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4406, FAX (502) 564-6508.

REGULATORY IMPACT ANALYSIS

Contact Person: John Wilson

(1) Type and number of entities affected: County governments; persons who currently possess exotic wildlife and those who wish to import and possess exotic wildlife.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation should have no impact on the cost of living or employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation will have no impact on costs of doing business.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: By no longer requiring a pet or propagation permit for holding exotic wildlife, paperwork and costs for both individuals and the department will be reduced. Current requirements for transportation permits will not change.

2. Second and subsequent years: Same as first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Costs will be reduced slightly by no longer requiring permits to hold exotic wildlife.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Persons importing exotic wildlife are required by statute to obtain a transportation permit. This administrative regulation requires that the applicant obtain written proof from a local government that the possession of certain dangerous exotic wildlife is not prohibited.

(4) Assessment of anticipated effect on state and local revenues: No fiscal impact on state and local revenues is anticipated.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fish and Game Fund.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation will be implemented statewide.

(b) Kentucky: No public comments received; no economic impacts

are anticipated.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The alternative of completely prohibiting the importation and possession of exotic wildlife was rejected because there are no public health or environmental implications for possession of most exotics; the alternative of allowing uncontrolled importation of exotic wildlife was rejected because some exotic species have the potential for causing environmental damage or pose a hazard to human health and safety.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will be implemented statewide. Prohibiting the importation of environmentally damaging species will prevent these species from becoming established in the wilds; allowing importation of potentially dangerous exotic animals only with proof that local laws do not prohibit their possession will help protect human safety and allow local governments to control nuisance animals.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: Possibility of environmental damage from exotic species becoming established in the wild; inability to control importation and possession of dangerous exotic animals.

(9) Identify and statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None have been identified.

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering is not appropriate because the administrative regulation applies equally to all individuals or entities it regulates. Disparate treatment of any persons of entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U. S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

**JUSTICE CABINET
Department of State Police
(New Administrative Regulation)**

502 KAR 31:010. Sex Offender Registration System.

RELATES TO: KRS Chapter 17.500

STATUTORY AUTHORITY: KRS 15A.160, 17.080, 17.500, 17.510

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160 and 17.080 provide that the Secretary of the Justice Cabinet may promulgate such administrative regulations as are necessary to properly administer the cabinet. KRS 17.510 requires the Justice Cabinet to develop and implement a Sex Offender Registration System. This administrative regulation establishes the definitions, defines the processes, and establishes the forms necessary for the administration of the Sex Offender Registration System.

Section 1. Definitions. (1) "Authorizing witness" means an official identified in KRS 17.510(3), (4), and (5).

(2) "Cabinet" means the Justice Cabinet.

(3) "Department" means the Department of State Police.

(4) "SORS" means the Sex Offender Registration System.

(5) "Sex offender information" means the specific information set forth in KRS 17.500(3) and shall include:

(a) The date of release from custody;

(b) Maximum date of sentence or supervision, whichever is longer;

(c) Date of registry expiration;

(d) Name of person competing the form, if registrant is assisted;

(e) Office phone number of the releasing entity;

(f) Signature of the registrant;

(g) Signature of the authorizing witness; and

(h) The date the form is signed.

Section 2. Sex Offender Duty to Register Notification Form. (1) A person sentenced as described in KRS 17.510(4) shall provide the information required by KRS 17.500(4), 17.510(4) and this administrative regulation on the Sex Offender Duty to Register Notification Form #JC-4.

(2) Completion of Sex Offender Duty to Register Notification Form #JC-4.

(a) Probation and Parole shall complete the Notification Form #JC-4 for the sentencing court.

(b) A person defined in KRS 17.510(4) shall, in the presence of the sentencing judge, sign the Notification Form #JC-4 in the "defendant's signature" block, in ink.

(c) A copy of the completed form shall be provided to the offender.

Section 3. SORS Registration Form. A person sentenced as described in KRS 17.510(2), (3), (4) and (5) shall provide the information required by KRS 17.500(3), 17.510(2), (3), (4) and (5) and this administrative regulation on the Sex Offender Register Entry Form #P:225.

(1) Completion of Sex Offender Register Entry Registration Form #P:225.

(a) The Entry Form #P:225 shall be completed either in the presence of or by the authorizing witness.

(b) In the presence of the authorizing witness, the offender shall read the Entry Form #P:225.

(c) The offender shall sign the Entry Form #P:225 in the "signature of offender" block of the form, in ink.

(d) The authorizing witness shall sign the form Entry Form #P:225 in the "authorizing witness" block of the Entry Form #P:225.

(e) The authorizing witness shall mail one (1) copy of the completed Entry Form #P:225 to the department on day the form is completed.

(2) A Entry Form #P:225 shall not be considered complete if:

(a) It does not contain the information required by KRS 17.500(3) and this administrative regulation; or

(b) It contains erroneous or false information; or

(c) An item on the Entry Form #P:225 cannot be read or understood; or

(d) The offender or authorizing witness fails to sign the appropriate block.

(3) If the department determines that a Entry Form #P:225 is incomplete pursuant to the provisions of this administrative regulation, the department shall notify the submitting authorizing witness, without entry into the SORS, of:

(a) The reason the Entry Form #P:225 was determined to be incomplete; and

(b) The action required to complete the Entry Form #P:225 prior to inclusion to the SORS.

(4) Upon notification of the corrected deficiencies as described above, the department shall enter the record into the SORS.

Section 4. Sex Offender Register Modification Form. A person sentenced as described in KRS 17.510(2), (3), (4) and (5) shall provide any change in the information required by KRS 17.500(3), 17.510(2), (3), (4) and (5) and this administrative regulation on the Sex Offender Register Modification Form #P:226.

(1) Completion of Sex Offender Register Modification Form

#P:226.

(a) The Modification Form #P:226 shall be completed either in the presence of or by the authorizing witness.

(b) In the presence of the authorizing witness, the offender shall read the Modification Form #P:226.

(c) The offender shall sign the Modification Form #P:226 in the "signature of offender" block of the form, in ink.

(d) The authorizing witness shall sign the form Modification Form #P:226 in the "authorizing witness" block of the Modification Form #P:226.

(e) The authorizing witness shall mail one (1) copy of the completed Modification Form #P:226 to the department on day the form is completed.

(2) A Modification Form #P:226 shall not be considered complete if:

(a) It does not contain the information required by KRS 17.500(7) and this administrative regulation; or

(b) It contains erroneous or false information; or

(c) An item on the form cannot be read or understood; or

(d) The offender or authorizing witness fails to sign in the appropriate block.

(3) If the department determines that a Modification Form #P:226 is incomplete pursuant to the provisions of this administrative regulation, the department shall notify the submitting authorizing witness of:

(a) The reason the Modification Form #P:226 was determined to be incomplete; and

(b) The action required to properly complete the Modification Form #P:226 before that information may be included in the SORS.

(4) Upon notification of the corrected deficiencies, as described above, the department shall enter the corrected information into that offender's SORS record.

Section 5. Sex Offender Registry Information Verification Form. A person sentenced as described in KRS 17.510(2), (3), (4) and (5) shall verify the accuracy of the information contained in the SORS on the Sex Offender Registry Information Verification Form #SOR 1.

(1) Annually, the department shall mail, no later than fourteen days prior to the anniversary date of each registrant, a Verification Form #SOR 1 to the last known address of the registrant.

(2) Completion of Sex Offender Registry Information Verification Form #SOR 1. A person defined in KRS 17.510(2), (3), (4) and (5) shall:

(a) Complete the Verification Form #SOR 1, and sign the Verification Form #SOR 1 in the "registrant signature" block, in ink; and

(b) Shall mail the completed Verification Form #SOR 1 to the department on the day the form is completed.

(3) A Verification Form #SOR 1 shall not be considered complete if:

(a) It does not contain the information required by KRS 17.500(3) and this administrative regulation; or

(b) It contains erroneous or false information; or

(c) An item on the form cannot be read or understood; or

(d) The registrant fails to sign in the appropriate block.

(4) If the department determines that a Verification Form #SOR 1 is incomplete pursuant to the provisions of this administrative regulation, the department shall return the form to the submitting registrant notifying the submitting registrant of:

(a) The reason the Verification Form #SOR 1 was returned; and

(b) The action required by the registrant to properly complete the Verification Form #SOR 1 prior to validation thereof.

Section 5. Incorporation by Reference. (1) The following forms are incorporated by reference:

(a) The Sex Offender Duty to Register Form #JC-4;

(b) The Sex Offender Register Entry Form #P:225;

(c) The Sex Offender Register Modification Form #P:226; and

(d) The Sex Offender Registry Information Verification Form #SOR 1.

(2) This material may be inspected, copied, or obtained at the Department of State Police, Data Processing Section, 1250 Louisville Road, Frankfort Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

E. DANIEL CHERRY, Secretary

APPROVED BY AGENCY: July 14, 1997

FILED WITH LRC: July 14, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 27, 1997 at 10 a.m. at Kentucky State Police Headquarters, 919 Versailles Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by August 20, 1997, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lieutenant Danny Ball, Kentucky State Police, Data Processing Section, 1250 Louisville Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Lieutenant Daniel L. Ball

(1) Type and number of entities affected: 235 probation and parole officers, 5 data processing staff of the Kentucky State Police and Department of Information Systems, the Administrative Office of the Courts, all circuit clerks, the judiciary and the existing 415 registrants that reside in the Sex Offender Registry as well as the undetermined number of sex offenders that will be registered in the future.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments are received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$75,000

2. Continuing costs or savings: \$35,000

3. Additional factors increasing or decreasing costs: Analysis, program development, and other technical tasks required by federal or state legislative mandates.

(b) Reporting and paperwork requirements: Design of the data capture form, mainframe computer file, and informational reports necessary to accommodate the statutory requirements; and the development of appropriate policies and procedures to facilitate the overall responsibilities of the Justice Cabinet.

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation is the funds budgeted for this 1994 - 1996 biennium. Agency General Fund moneys for startup and continuation costs.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(10) Any additional information or comments: None

(11) TIERING: Was tiering applied: No. Tiering was not appropriate in this administrative regulation because the regulation applies equally to all those individuals that will be listed in the Sex Offender Registry.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Insurance

(New Administrative Regulation)

806 KAR 13:130. Experience modification factors for workers' compensation insurers.

RELATES TO: KRS 304.13-011(9), 304.13-057, 304.13-091, 304.13-415

STATUTORY AUTHORITY: KRS 304.13-415

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.13-415 requires that for each workers' compensation policy issued or renewed on or after May 1, 1997, insurers or licensed advisory organizations shall provide policyholders with written explanations of the policyholders experience modification factor and the data and methodology utilized in the calculation of the factor. KRS 304.13-415 also provides that the commissioner shall establish guidelines for application of experience modification factors to be used in developing workers' compensation insurance rates. This administrative regulation establishes guidelines for the application of experience modification factors, and for the written explanations to policyholders regarding how the factors were calculated.

Section 1. Workers' compensation insurers that use experience modification factors shall develop an experience modification factor for each insured in accordance with the following provisions:

(1) The experience modification factor shall be based upon three (3) full years of experience ending one (1) year prior to the effective date of the modification;

(2) The experience modification factor shall be developed on an annual basis and shall remain effective for twelve (12) months;

(3) Only one (1) experience modification shall apply to a given risk at any time and shall apply to all operations of the risk;

(4) In developing premium for the experience modification factor, insurers shall:

(a) Apply the experience modification factor to the carrier's rates in force on the effective date of the experience modification factor; and

(b) Base the premium upon state qualifying premium amounts and the predetermined state limits, as both are identified in an advisory organization's publications approved by the commissioner; and

(5) An experience modification factor may be determined for a risk when the risk has developed sufficient qualifying premium based on payroll and other exposures reported in accordance with an advisory organization's publications approved by the commissioner.

Section 2. Each insurer or advisory organization using experience modification factors shall provide the policyholder with a written explanation of the policyholder's experience modification factor in language reasonably calculated to inform the policyholder of the data and methodology utilized in the calculation of the factor, including but not limited to the information referenced in Section 1 of this administrative regulation.

GEORGE NICHOLS III, Commissioner

LAURA M. DOUGLAS, Secretary

APPROVED BY AGENCY: June 20, 1997

FILED WITH LRC: June 25, 1997 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on August 21, 1997 at 10 a.m. (ET) in the offices of the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by August 14, 1997, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments must be received prior to 10 a.m. on August 21, 1997, in order to receive consideration. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lawrence W. Cook, Counsel, Kentucky Department of Insurance, 215 W. Main Street, P.O. Box 517, Frankfort, Kentucky 40602, Telephone Number: (502) 564-6032 (ext. 219), Fax Number: (502) 564-1456.

REGULATORY IMPACT ANALYSIS

Contact Person: Lawrence W. Cook

(1) Type and number of entities affected: Approximately 298 workers' compensation insurers will be affected.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments have been received at this time.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments have been received at this time.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: Workers' compensation

insurers or advisory organizations will be required to provide written explanations to policyholders of how their experience modification factors were calculated.

2. Second and subsequent years: The same compliance, reporting and paperwork requirements will continue into second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: approximately \$3,000 in costs.

2. Continuing costs or savings: \$3,000 in costs.

3. Additional factors increasing or decreasing costs: It is possible, but unlikely, that more appeals will be filed, thus increasing the department's costs.

(b) Reporting and paperwork requirements: None are foreseeable at this time.

(4) Assessment of anticipated effect on state and local revenues: None are foreseeable at this time.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budget created for department of Insurance will be the source of revenue.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No public comments have been received at this time.

(b) Kentucky: No public comments have been received at this time.

(7) Assessment of alternative methods; reasons why alternatives were rejected: This regulation is being promulgated to implement provisions of HB 1 (1996 Extraordinary Session). No alternatives existed.

(8) Assessment of expected benefits: This regulation will assist workers' compensation insurers and insureds by providing uniform guidelines for the use of experience modification factors.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This item is not applicable to this regulation.

(b) State whether a detrimental effect on environment and public health would result if not implemented: This item is not applicable to this regulation.

(c) If detrimental effect would result, explain detrimental effect: This item is not applicable to this regulation.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This item is not applicable to this regulation.

(a) Necessity of proposed regulation if in conflict: This item is not applicable to this regulation.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: This item is not applicable to this regulation.

(10) Any additional information or comments: None

(11) TIERING: Tiering is not applicable because the regulation applies equally to all workers' compensation insurers that use experience modification factors.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(New Administrative Regulation)

806 KAR 13:140. Notice of right to seek review of application of workers' compensation insurance rates.

RELATES TO: KRS 304.13-057, 304.13-161, 304.13-415, Chapter 342 et seq.

STATUTORY AUTHORITY: KRS 304.13-161

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110

provides that the Commissioner of Insurance may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.13-161 provides that each insurer or agent shall notify in writing each insured at the time a workers' compensation policy is issued or renewed, on or after May 1, 1997, of the insured's right to seek a review of the manner in which the rating system was applied. KRS 304.13-161 requires the commissioner to promulgate an administrative regulation setting forth the manner and format of the written notice. This administrative regulation prescribes the manner and format of this notice.

Section 1. With every workers' compensation insurance policy issued or renewed on or after May 1, 1997, insurers or agents shall include the following written "Notice of Insured's Rights" at the time the policy is issued or renewed. In the case of a new policy, the notice shall be provided with the policy. In the case of renewal, the notice shall be provided at the time of renewal.

Section 2. The notice shall clearly state in substance:

NOTICE OF INSURED'S RIGHTS

If you are insured under a workers' compensation insurance policy and believe that the rates or the rating system have been incorrectly or improperly applied, you may request a review of the manner in which the rate or rating system has been applied. You must make your request in writing to the insurance company or advisory organization. The insurance company or advisory organization has thirty (30) days to grant or reject your request for a review and to notify you in writing whether your request has been granted or rejected. If your request is granted, the insurance company or advisory organization shall conduct the review within ninety (90) days of receiving your request. If your request is rejected or if you are dissatisfied with the results of the review, you may appeal to the commissioner for further review. You must make your appeal within thirty (30) days of receipt of the rejection or of the results of the review. Your appeal is to be sent to:

Legal Division
Department of Insurance
P.O. Box 517
Frankfort, KY 40602

Your request for an appeal should include a statement of the facts and how the rates or rating system were incorrectly or improperly applied. Also, enclose copies of the results of the review and any other correspondence from the insurance company or advisory organization. If your appeal shows good cause, the commissioner shall hold a hearing. The commissioner may after the hearing issue a final order affirming, modifying, or reversing the action of the insurance company or advisory organization.

GEORGE NICHOLS III, Commissioner

LAURA M. DOUGLAS, Secretary

APPROVED BY AGENCY: June 20, 1997

FILED WITH LRC: June 25, 1997 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on August 21, 1997 at 10:15 a.m. (ET) in the offices of the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by August 14, 1997, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed

administrative regulation. Written comments must be received prior to 10 a.m. on August 21, 1997, in order to receive consideration. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lawrence W. Cook, Counsel, Kentucky Department of Insurance, 215 W. Main Street, P.O. Box 517, Frankfort, Kentucky 40602, Telephone Number: (502) 564-6032 (ext. 219), Fax Number: (502) 564-1456.

REGULATORY IMPACT ANALYSIS

Contact Person: Lawrence W. Cook

(1) Approximately 298 workers' compensation insurers will be affected.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments have been received at this time.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments have been received at this time.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: Workers' compensation insurers will be required to provide their insureds with a one page notice.

2. Second and subsequent years: The same compliance, reporting, and paperwork requirements will continue into the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None are foreseeable at this time.

2. Continuing costs or savings: None are foreseeable at this time.

3. Additional factors increasing or decreasing costs: None are foreseeable at this time.

(b) Reporting and paperwork requirements: None are foreseeable at this time.

(4) Assessment of anticipated effect on state and local revenues: None are foreseeable at this time.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budget created for Department of Insurance will be the source of revenue.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No public comments have been received at this time.

(b) Kentucky: No public comments have been received at this time.

(7) Assessment of alternative methods; reasons why alternatives were rejected: This regulation is being promulgated to implement provisions of HB 1 (1996 Extraordinary Session). No alternatives existed.

(8) Assessment of expected benefits: This regulation creates a mechanism to inform insureds of their statutory right to request that their workers' compensation insurer or advisory organization review the rates, or the effect of their rating system applied to their policies, and of their right to appeal the decision of the insurer or advisory organization to the commissioner.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This item is not applicable to this regulation.

(b) State whether a detrimental effect on environment and public

health would result if not implemented: This item is not applicable to this regulation.

(c) If detrimental effect would result, explain detrimental effect: This item is not applicable to this regulation.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 304.13-161 (overlaps).

(a) Necessity of proposed regulation if in conflict: This item is not applicable to this regulation.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: This item is not applicable to this regulation.

(10) Any additional information or comments: HB 1 requires the commissioner to prescribe the manner and format in which insurers or agents notify each insured in writing of their rights under KRS 304.13-161.

(11) TIERING: Tiering is not applicable because the regulation applies equally to all workers' compensation insurers.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance (New Administrative Regulation)

806 KAR 40:020. Charitable health care provider registration.

RELATES TO: KRS 304.40-075

STATUTORY AUTHORITY: KRS 304.40-075

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 304.40-075, the department is required to establish guidelines for the registration of charitable health care providers who wish to obtain reimbursement of premiums paid for medical professional liability insurance. This administrative regulation will implement that requirement.

Section 1. A charitable health care provider shall register with the department by supplying the following information:

(1) Name and address;

(2) License number of provider;

(3) Source of funding for the provider of charitable health care service;

(4) Number of employees who render medical care without compensation or charge and without expectation of compensation or charge and who will be covered under the malpractice coverage;

(5) The expected number of patients to be provided charitable health care services in the year for which the insurer will offer malpractice coverage;

(6) Health services provided by the charitable health care provider;

(7) Information regarding the provider's medical professional liability insurance policy which shall include the following:

(a) Insurer's name and address;

(b) Policy period; and

(c) Policy number;

(8) Acknowledgment that provider will follow insurer's risk management and loss prevention policies and procedures.

Section 2. If any of the information provided in Section 1 of this administrative regulation changes or is incorrect, the charitable health care provider shall provide the correct information immediately to the department.

Section 3. (1) An insurer which offers medical professional liability insurance shall provide information regarding premiums paid, expenses incurred by the insurer, and profits made for all risk covered pursuant to KRS 304.40-075. The information required by Section 1 of this administrative regulation shall be provided to the department

by March 1 and shall include premium, expense, and profit information from the preceding calendar year.

(2) In order for the department to determine reasonable loss ratio guidelines, upon request by the department, an insurer which offers medical professional liability insurance shall provide premium, profit, and expense information related to all of its medical professional liability insurance business.

GEORGE NICHOLS III, Commissioner

LAURA M. DOUGLAS, Secretary

APPROVED BY AGENCY: June 26, 1997

FILED WITH LRC: July 1, 1997 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 1997, at 10 a.m. (ET) at the offices of the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard shall notify this agency in writing by August 14, 1997, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments must be received prior to 4:30 p.m. (ET) on August 21, 1997, in order to receive consideration. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Sharron S. Burton, Counsel, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, Telephone Number: (502) 564-6032, Ext. 249, Fax Number: (502) 564-1456.

REGULATORY IMPACT ANALYSIS

Contact Person: Sharron S. Burton

(1) Type and number of entities affected: All charitable health care providers who wish to obtain reimbursement of premiums paid for medical professional liability insurance will be affected. Currently, there are four (4) charitable health care providers in Kentucky. Insurers that provide medical professional liability insurance to charitable health care providers will be required to report information to the department. Other insurers that offer medical professional liability insurance will be required to report information to the department upon request.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments have been received regarding this issue.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments have been received regarding this issue.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: The new administrative regulation requires all charitable health care providers to register with the department by providing specific information which is outlined in the administrative regulation. Also, all insurers that provide medical professional liability insurance will be required to submit information regarding premiums, profits, and expenses to the department. Other insurers offering medical professional liability insurance must report information to the department upon request.

2. Second and subsequent years: Each charitable health care

provider must inform the department of any changes in its reported data. Insurers providing medical professional liability insurance must annually report information to the department. Other insurers offering medical professional liability insurance must continually report information to the department upon request.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The department will be required to collect data filed by charitable health care providers and insurers. The number of charitable health care providers who will register with the department in the future is unknown. Therefore, the department is unable to precisely evaluate the costs of collecting this data.

2. Continuing costs or savings: Unknown

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: It will be the duty of the department to accept all filings made by charitable health care providers and to send notices of registration to the charitable health care providers.

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The normal budget for the Department of Insurance will be used to implement this administrative regulation.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No public comments have been received regarding this issue.

(b) Kentucky: No public comments have been received regarding this issue.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 304.40-075 charges the department with the promulgation of administrative regulations which establish reasonable guidelines for the registration of charitable health care providers. This administrative regulation carries out the duties required by the statute. Therefore, no alternatives were reviewed.

(8) Assessment of expected benefits: The charitable health care provider will provide information to the department which is required for registration purposes.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The ideal effect of this administrative regulation would be to encourage health care providers to do charitable work and maintain malpractice coverage.

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering does not apply, because this administrative regulation applies to all charitable health care providers.

CABINET FOR HEALTH SERVICES
Department For Public Health
Division of Health Systems Development
(New Administrative Regulation)

902 KAR 14:084. Class III ground ambulance providers.

RELATES TO: KRS 211.950 to 211.956, 216B.015(9), 216B.105(1), 216B.410, 216B.990(1), (2)

STATUTORY AUTHORITY: KRS Chapter 13B, 211.952, 216B.042, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services. KRS 216B.042 requires that the Cabinet for Health Services regulate health facilities and health services. KRS 211.952(2)(c) requires the cabinet to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers. This administrative regulation provides for the minimum licensing requirements for Class III ground ambulance providers.

Section 1. Definitions. (1) "Advanced life support" (ALS) means a Class III ground ambulance provider which:

(a) Utilizes certified and licensed emergency medical professionals to provide interfacility medical care between hospitals such as:

1. Basic life support services (BLS);
2. Advanced airway management such as endotracheal intubation;
3. Defibrillation; and
4. Administration of intravenous fluids and pharmaceuticals under the authority of a physician; and

(b) Meets the requirements established in this administrative regulation and is licensed by the cabinet to provide health care.

(2) "Base station" means the primary business location where administrative and personnel records are kept.

(3) "Class I ground ambulance provider" means an ambulance provider licensed under 902 KAR 14:070 who meets the requirements of 902 KAR 14:080.

(4) "Class II ground ambulance provider" means an ambulance provider licensed under 902 KAR 14:070 which meets the requirements of 902 KAR 14:082.

(5) "Continuing education" means the provision of information or training within the scope of an individual's level of certification which is required for recertification or relicensure.

(6) "Critical care experience" means specific patient population experience, specialized training, and current competency in emergency and critical care consistent with approved medical protocols and the patient population to be served.

(7) "Dispatch center" means the location where incoming calls are initially received requesting an ambulance.

(8) "Employee" means personnel who may be paid or volunteer, full time or part time.

(9) "Licensing agency" means the Cabinet for Health Services, Department for Public Health.

(10) "Medical attendant" means a licensed medical doctor, registered nurse, paramedic, or certified respiratory therapist who meets the respective requirements specified for a medical attendant in Section 5(8) and (9) of this administrative regulation.

(11) "Medical control" means the process of performing actions to ensure that:

- (a) Care taken on behalf of an ill or injured patient:
 1. Is medically appropriate; and
 2. Includes the prospective, concurrent, and retrospective aspects of mobile intensive care; and
- (b) Includes the following:
 1. Quality assurance;

2. Development and approval of medical protocols; and
3. Continuing education.

(12) "Mobile intensive interfacility care" means medical care provided during transport between hospitals utilizing sophisticated medical equipment and supplies and specially trained health care providers operating under approved medical protocols which exceed the normal scope of service of a Class I ground ambulance provider.

(13) "Mutual aid agreement" means a formal written agreement with another licensed Class III provider for backup assistance in the event the provider is unable to respond to a request for a mobile intensive interfacility transfer or the request exceeds the capacity of the provider.

(14) "Nurse" means a registered nurse licensed by the Kentucky Board of Nursing (KBN).

(15) "Paramedic" means a person so certified by the Kentucky Board of Medical Licensure (KBML).

(16) "Physician" means a medical doctor licensed by the KBML.

(17) "Provider" means a Class III ground ambulance provider.

(18) "Sharps" means a portion, or the whole unit, of medical supplies used in treatment procedures that may puncture the skin such as needles and glass ampules.

Section 2. Licensing Requirements. (1) Except as provided in subsection (2) of this section, a person shall not provide, advertise, or profess to engage in the provision of Class III ground ambulance services where the original point of patient contact is in Kentucky without having first obtained:

- (a) A certificate of need; and
- (b) A license from the cabinet pursuant to 902 KAR 14:070.

(2) A provider currently licensed under 902 KAR 14:070 and 902 KAR 14:080, Section 11, as a specialized ground ambulance provider or specialized Class I ground ambulance provider may be licensed as a Class III provider without obtaining a new certificate of need if:

(a) The provider has previously been approved by the cabinet to provide neonatal transfers and other critical care transfers between hospitals;

(b) Makes application to the cabinet within one (1) year from the effective date of this administrative regulation; and

(c) Meets the requirements of this administrative regulation.

(3) A Class III provider shall not be permitted to convert their license to:

- (a) A Class I ground ambulance provider;
- (b) A Class II ground ambulance provider; or
- (c) An air ambulance provider licensed under 902 KAR 14:070

without first obtaining a new certificate of need.

(4) A provider shall:

(a) Comply with local, state, and federal statutes and regulations; and

(b) Be established and operated by:

1. A licensed hospital; or
2. A person as defined in KRS 216B.010(15) who is operating under a contract or an affiliation agreement with a licensed hospital.

(5) A provider may request:

(a) To narrow and restrict their scope of service consistent with their approved certificate of need to serve a particular patient population such as:

1. Neonatal;
2. Pediatric;
3. High risk obstetrics; or
4. Adult cardiac or trauma; and
- (b) Variances in equipment, supplies, or personnel unique to that patient population.

(6) Prior to being licensed, a provider shall submit the following for review and approval by the licensing agency:

(a) The name and qualifications of the provider medical director and arrangements for medical direction at times when the medical director is unavailable;

(b) The medical protocols and utilization criteria to be utilized by the provider;

(c) The qualifications of the medical attendants in terms of:

1. Critical care experience;
2. Specialized training; and
3. Evidence of clinical competency;

(d) The list of proposed additional equipment, supplies, and medications necessary for the monitoring and treatment of patients having critical conditions; and

(e) A written contingency plan in place to obtain assistance to the Class III provider in the event of a mechanical breakdown during transport.

(7) The licensing agency shall utilize the Kentucky Emergency Medical Services Council to review the materials described in subsection (6) of this section and make recommendations to the licensing agency based on:

- (a) The scope of service to be provided;
- (b) The patient populations to be served; and

(c) The types of medical conditions and treatments which are contained in the protocols.

(8) If any of the materials described in subsection (6) of this section are to be changed or modified by the provider after review and approval by the licensing agency, the licensing agency shall be notified in writing. Such changes or modifications shall not be implemented without:

(a) Review by the Kentucky Emergency Medical Services Council; and

(b) Approval of the licensing agency.

(9) The license shall be displayed in a prominent place at the service base station. The following information shall be included on the license:

(a) Identity and location of the base station; and

(b) Designation of the geographic area to be served by the licensee.

(10) A Class III provider shall not be precluded from providing mutual aid assistance, within their scope of service pursuant to subsection (5) of this section, to a Class I ground ambulance service outside of the geographic service area of the Class III provider in unusual circumstances such as disaster assistance.

(11) Except for disaster assistance, a Class III provider shall not make an emergency scene run.

Section 3. Management Requirements. A provider shall:

(1) Establish lines of authority and an organizational chart to include the designation of:

(a) An administrator responsible for assuring compliance with this administrative regulation during the daily operation of the service; and

(b) A designee who shall serve if necessary in the absence of the administrator;

(2) A provider shall keep accurate records and reports concerning the transportation of a patient between hospitals which shall be maintained at the base station of the licensee and shall be available for periodic review as deemed necessary by the licensing agency;

(3) A provider shall provide a full record to the receiving facility of treatment administered at the pickup location and during transit. Required records and reports shall include:

(a) The "Kentucky Emergency Medical Service Ambulance Run Report", Form EHS-8A, incorporated by reference; or

(b) An equivalent provider specific transport record acceptable to the licensing agency;

(4) Copies of completed run report forms shall be kept as required by KRS 216B.410(1) in a manner of confidentiality and safekeeping for a minimum of five (5) years from the date on which the service was rendered, or in the case of a minor, until five (5) years after the minor reaches eighteen (18) years of age;

(5) A copy of the run form, or electronic equivalent, shall be forwarded to the cabinet within thirty (30) days following the end of

the month in which the run occurred;

(6) Personnel files on each ambulance driver and attendant shall be maintained for:

(a) A minimum of five (5) years following termination or retirement from employment; or

(b) Five (5) years following the demise of the employee;

(7) Individual ambulance driver and attendant personnel files shall contain evidence of:

(a) Training;

(b) Experience;

(c) Current credentials including proof of:

1. CPR certification; and

2. Appropriate licensure or certification for medical attendants; and

(d) Current and valid driver's license for ambulance drivers;

(e) A preemployment criminal and Department of Transportation driver's records check for each individual driver or attendant; and

(f) Health records to include:

1. Written evidence of a preemployment health assessment having been conducted by a physician or a licensed advanced registered nurse practitioner (ARNP) stating the employee is capable of performing assigned job duties; and

2. Health records which meet the requirements of KRS 216B.410(3);

(8)(a) A provider shall maintain and follow written policies and procedures that are reviewed on an annual basis by the provider in order to assess their effectiveness.

(b) The policies and procedures shall include the following areas:

1. Organizational structure, staffing, and allocation of responsibility and accountability;

2. Mutual aid agreements with other ambulance providers which include contingency plans for completion of transport in the event of a mechanical failure in the Class III vehicle;

3. Personnel performance guidelines;

4. A plan to assure that a continuing education program shall be provided for its staff. The program shall include:

a. Evidence of continuing education for staff regarding acquired immune deficiency syndrome (AIDS) and infection control, including the handling of infectious waste in accordance with Centers for Disease Control guidelines; and

b. Patient care in the transportation environment;

(9) A plan for the protection and decontamination of, the patient, ambulance, equipment, and staff if called upon to transport a patient exposed to hazardous chemicals;

(10) A plan for assessing all other staff continuing education needs, with a coordinated development of methods to meet those needs;

(11) The maintenance of training rosters or other written records to support continuing education conducted by, or at the request of the licensee;

(12) A plan for the quality assessment of patient care including a periodic review of ambulance run report forms, and evaluation of staff performance related to patient care; and

(13) Policies and procedures concerning:

a. Vehicle maintenance;

b. Standard operating procedures (SOPS);

c. Patient protocols;

d. Ambulance response;

e. Transport limitations; and

f. Patient destination.

Section 4. Operating Requirements. (1) A provider shall have a mutual aid agreement with another Class III provider or an ALS air ambulance provider which is to be enacted if the provider:

(a) Is unable to respond to a request for a mobile intensive interfacility transfer; or

(b) Receives and declines a request for a mobile intensive

interfacility transfer.

(2) If none of the mutual aid providers are willing or able to accept the mobile intensive interfacility transfer, any licensed Class III provider or an ALS air ambulance provider may accept the transfer.

(3) An ambulance used in the provision of Class III ground ambulance services shall:

- (a) Be maintained in good operating condition and in full repair;
- (b) Be designed to provide for the medical care and transportation of a patient consistent with the mission statement of the service;
- (c) Have interior lighting adequate to ensure complete observation of the patient;

(d) Have the capability of shielding the cab from light in the patient care area during night operation;

(e) Have an electric inverter or generator, with two (2) outlets, to convert direct current (DC) to alternating current (AC) for operation of specialized equipment, such as an isolette or intra-aortic balloon pump.

(f) Except for color and provider identification, comply fully with ambulance design criteria contained in "Federal Specifications for Ambulances", KKK-A-1822 D (11/94) General Services Administration (GSA) federal specifications in effect at the time the ambulance is manufactured; and

(g) Comply with KRS 189.910 through 189.950 regarding the use of lights and siren.

(4) The provider shall require that a certification decal or sticker be supplied by the manufacturer of newly purchased ambulances, indicating that the ambulance met GSA federal specifications on the date it was manufactured. The certification decal shall be located on a permanent surface, such as in the ambulance oxygen tank compartment, or as later identified in a GSA federal specification revision.

(5) For an ambulance that is later modified, a provider shall require the conversion company to supply a letter to verify the modification meets or exceeds the GSA federal specification requirements, except for color or provider identification, as incorporated in the GSA federal specifications on the ambulance original date of manufacture.

(6) In addition to the GSA federal specifications, the following state licensing requirements shall be maintained:

(a) When providing patient care, the heating system shall maintain a temperature of not less than sixty-five (65) degrees Fahrenheit in the driver and patient compartments in winter weather conditions; and

(b) When providing patient care, the air conditioning system shall maintain a temperature of not more than eighty-five (85) degrees Fahrenheit in the driver and patient compartments in summer weather conditions.

(7) The name of the provider and the affiliated hospital shall appear on the exterior surface of the ambulance.

(8) A preventive maintenance program for each ambulance and its equipment shall be developed and implemented to keep them in optimum working order.

(9) Documentation shall be maintained by the provider to support evidence of:

- (a) Inspection;
- (b) Calibration;
- (c) Maintenance; and
- (d) Operation of the ambulance and its equipment in accordance with:

1. The requirements and maintenance schedule of the manufacturer; or

2. Other regulatory agencies.

(10) Unless precluded by emergency conditions, the interior of the ambulance and its equipment shall be checked after each use to ensure that they are kept and maintained in a clean and sanitary condition.

Section 5. Class III Personnel. (1) There shall be no more patients, personnel, or other persons than can be safely secured by means of seat safety belts or similar devices in the ambulance during transportation.

(2) All personnel shall:

(a) Be capable of performing their job duties, and shall not cause the patient or other personnel any undue jeopardy; and

(b) Receive, on an annual basis, orientation on safe patient transport and patient care in the transport environment.

(3) The driver on each Class III ambulance run shall:

(a) Have a current motor vehicle operator's license;

(b) Have at least two (2) years of experience as a licensed driver or operator; and

(c) Complete a defensive driving training program that is developed by the provider or in conjunction with another agency or organization which has developed a program.

(4) The training program shall be:

(a) Repeated for each driver at least every four (4) years; and

(b) Consist of at least four (4) hours review of driving a vehicle under emergency conditions;

(5) Documentation shall be available to support training in the following areas:

a. Review of KRS 189.910 through 189.950 regarding emergency vehicles.

b. Forward and back-up driving maneuvers in a controlled situation, such as in an obstacle course designed specifically for this purpose; and

c. Review of defensive driving techniques and procedures by hands-on experience or exposure by visual aids, such as video tapes, slides, or planned demonstrations.

(6) Unless one (1) of the medical attendants on the run is a Kentucky certified paramedic, the driver shall be a Kentucky certified emergency medical technician (EMT).

(7) Except as provided in subsection (10) of this section, a provider shall be staffed to provide, at least two (2) medical attendants for each run.

(8) One (1) ambulance medical attendant on each Class III run shall:

(a) Have at least two (2) years critical care experience;

(b) Be certified or licensed for one (1) of the following levels:

1. Physician licensed by the Kentucky Board of Medical Licensure (KBML); or

2. Registered nurse (RN) licensed by the Kentucky Board of Nursing (KBN); and

(c) Show evidence of successful completion, within the last two (2) years of one (1) of the following:

1. American Heart Association (AHA) Advanced cardiac life support (ACLS) provider course for adult patients;

2. AHA Pediatric advanced life support (PALS) course for pediatric patients; or

3. AHA Neonatal resuscitation provider (NRP) course for neonates.

(9) The second medical attendant shall have certification or licensure for one (1) of the following levels:

(a) Paramedic. If paramedics are utilized, a provider shall provide evidence that the qualifications of the medical director and medical protocols have been approved by the KBML;

(b) RN licensed by the KBN who has at least two (2) years critical care experience;

(c) Respiratory therapist certified by the Kentucky Board of Respiratory Care who has at least two (2) years critical care experience; or

(d) Physician licensed by the KBML.

(10) A provider, who's mission is to provide critical care and transport of the neonatal infant, shall be allowed to return the neonatal patient in an isolette nonemergently to the referring facility nursery with one (1) ambulance medical attendant who meets the

personnel requirements set forth in subsection (8) of this section.

(11) A provider desiring variations in personnel shall submit a request in writing for consideration and approval by the cabinet.

Section 6. Basic Life Support (BLS) Equipment and Supplies. Unless a variance is approved by the cabinet, at the time of patient transport, a provider shall carry and maintain in full operational order the following BLS equipment and supplies in sizes which are applicable to the age and patient population served by the provider:

- (1) Fixed and portable suction apparatus including:
 - (a) Rigid tonsillar catheters; and
 - (b) Flexible catheters;
- (2) Disposable bag-valve-mask ventilation units;
- (3) Nasopharyngeal and oropharyngeal airways;
- (4) A cuff and stethoscope, or equivalent device for measuring blood pressure.
- (5) Oxygen equipment including:
 - (a) Fixed and portable oxygen tanks with a filled, minimum size D, secured spare portable cylinder;
 - (b) Pressure gauge and flow rate regulator with a range of zero to fifteen (15) liters per minute;
 - (c) Oxygen humidifier attachment for use on the fixed oxygen tank;
 - (d) Adapter and tubing;
 - (e) Transparent simple oxygen masks;
 - (f) Transparent nonrebreather oxygen masks; and
 - (g) Nasal cannulas;
- (6) Bandages and tape to include:
 - (a) Two (2) sterile universal dressings;
 - (b) Twenty-five (25) sterile gauze pads, four (4) inches by four (4) inches;
 - (c) Six (6) soft roller selfadhering bandages in various sizes;
 - (d) Four (4) rolls of adhesive tape in at least two (2) sizes; and
 - (e) One (1) sterile burn sheet;
- (7) One (1) roll of aluminum foil, or an occlusive substitute;
- (8) Shears for bandages;
- (9) Hand held flashlight;
- (10) Two (2) penlights;
- (11) One (1) sterile obstetrical kit;
- (12) If stocked on the ambulance, sterile irrigation fluids with current expiration date, shall be obtained and maintained according to local, state, and federal statutes and regulations.
- (13) Splints and immobilization devices including:
 - (a) Lower extremity traction splint, or equivalent;
 - (b) Splints for arm, leg, and foot such as inflatable air splints, padded boards, ladder splints, or similar substitute;
 - (c) Short spine board or other similar extrication device;
 - (d) Long spine board or orthopedic scoop stretcher with cervical immobilization accessories; and
 - (e) Rigid, stiff cervical collars;
- (14) Two (2) five (5) pound size, ABC multipurpose fire extinguishers, approved by Underwriters Laboratory, Coast Guard, or Factory Mutual. One (1) shall be located in the driver compartment and one (1) shall located in the patient compartment;
- (15) Multiposition stretcher or isolette with wheels and a mechanism to secure the stretcher or isolette while in transit;
- (16) One (1) pocket mask with an isolation valve per patient attendant;
- (17) One (1) clean scrub gown or substitute, such as disposable coveralls, a disposable mask, and a pair of gloves per patient attendant;
- (18) One (1) particulate filter face mask per attendant meeting federal standards set by the Occupational Safety and Health Administration (OSHA) and one (1) face mask per patient meeting OSHA standards for use during transport of patients known to be infected with tuberculosis;
- (19) A means of cleansing the hands shall be provided, such as

the provision of a solution or disposable towelettes;

- (20) Hospital type disinfectants;
- (21) Plastic bags for disposal of waste materials;
- (22) If sharps are carried, a puncture resistant container for disposal of sharp objects;
- (23) Two (2) sets of clean blankets, sheets, and pillowcases; and
- (24) An emesis container or similar substitute;
- (25) A provider whose exclusive mission is to provide critical care and transport of infants shall not be required to carry the following adult specific equipment:
 - (a) Rigid tonsillar catheters as required in subsection (1)(a) of this section;
 - (b) One (1) sterile obstetrical kit as required in subsection (11) of this section; and
 - (c) Splints and immobilization devices as required in subsection (13)(a),(b),(c), and (d) of this administrative regulation.

Section 7. ALS Equipment and Supplies. (1) At the time of patient transport, a provider shall carry on each vehicle, and maintain in full operational order, the following ALS supplies and equipment and additional supplies and equipment as provided for in protocols established in Section 9(1)(a) of this administrative regulation, in sizes which are applicable to the age and patient population served by the provider:

- (a) An endotracheal intubation set consisting of:
 1. Laryngoscope handle;
 2. Straight laryngoscope blades;
 3. Curved laryngoscope blades;
 4. Extra batteries and bulbs for blades and handles; and
 5. Endotracheal tubes for oral and nasal placement;
- (b) Stylettes;
- (c) Magill forceps;
- (d) One-half (1/2) inch wide twill tape or functional equivalent for securing endotracheal tubes;
- (e) Water soluble lubricant for lubrication of endotracheal and nasotracheal tubes;
- (f) Bite block;
- (g) A portable monitor defibrillator that:
 1. Provides a visual display of cardiac electrical activity;
 2. Provides a hard copy of cardiac electrical activity measure;
 3. Delivers direct current energy over a variable range which is suitable for pediatric and adult usage;
 4. Has adult and pediatric external paddle electrodes for immediate monitoring of heart activity and delivery of countershock in both the adult and pediatric patient;
 5. May be operated from internal rechargeable batteries;
 6. Has synchronized countershock capability for cardioversion and external pacing;
 7. Has a patient monitoring cable which has the following accessories:
 - a. Electrode paste or gel or equivalent;
 - b. Electrode pads or functional equivalent for use with the patient monitoring cable; and
 - c. One (1) additional roll of paper for hard copy printout.
- (h) Three (3) sizes in eighteen (18) through twenty-five (25) gauge sterile, disposable needles;
- (i) Three (3) sizes in one (1) cc to thirty (30) cc sizes disposable syringes;
- (j) If blood samples are to be drawn, containers for the collection of blood samples shall be available;
- (k) Tourniquet for use with venipuncture procedure;
- (l) Dextrostix® or functional equivalent for the measure of blood glucose levels;
- (m) Disposable, individually packaged antiseptic wipes;
- (n) Intravenous fluids, macrodrip and microdrip fluid sets, extension sets and accessory items;
- (o) Intravenous catheter over needle devices in twelve (12)

through (24) gauge;

(p) Butterfly needles in nineteen (19) through twenty-five (25) gauge;

(q) Intraosseous needles;

(r) Pediatric drug dosage tape or equivalent which shall provide easy reference for pediatric and infant treatment and drug dosages;

(s) Nasogastric tubes in size five (5) 5F, eight (8) F pediatric sizes, sizes ten (10) to eighteen (18) French adult, and sizes fifty (50) or sixty (60) cc catheter tipped syringes or equivalent; and

(t) Pulse oximeter or other device capable of determining blood oxygen saturation.

(2) A provider whose exclusive mission is to provide critical care and transport of infants shall be not be required to carry the following adult specific equipment:

(a) Bite block as required in subsection (1)(f) of this section; and

(b) Nasogastric tubes in sizes:

1. Ten (10) to eighteen (18) French adult; and

2. Fifty (50) or sixty (60) cc catheter tipped syringes or functional equivalent tubes as required in subsection (1)(s) of this section.

(3) A provider shall stock and maintain drugs and medications as required by:

(a) Protocols established in accordance with Section 9(1)(a) of this administrative regulation; and

(b) Local, state, and federal statutes and regulations;

(4) Controlled drugs shall be stored in a locked compartment or equivalent approved by the cabinet.

(5) A provider who stores and utilizes controlled substances shall have protocols approved by the cabinet's Drug Control Branch.

(6) In addition to the standard ALS equipment listed above, each Class III ground ambulance shall have additional equipment, supplies, and medications as necessary for the monitoring and treatment of patients having critical conditions consistent with the mission of the service, the population to be served, and the approved patient care protocols.

Section 8. Communication System. (1) A communications system shall be developed, coordinated, and maintained by each provider.

(2) A provider shall:

(a) Be equipped with two (2) way radio communication equipment capable, under normal conditions, of contacting the ambulance dispatch center, medical control, or the receiving hospital;

(b) Have an acceptable plan to assure that all calls are promptly answered, and runs are dispatched in an expedient manner; and

(c) Provide annual orientation to all drivers and attendants related to communication protocols that have been established by the service.

Section 9. Medical Director. (1) A provider shall have a written agreement with a physician medical director who shall:

(a) Develop protocols and provide medical consultation to and supervision of the ambulance personnel in accordance with the written agreement between the provider and the physician medical director;

(b) Grant authority for certified and licensed ambulance personnel to perform certain skills and procedures according to protocols;

(c) Retain and exercise authority to limit, suspend, or terminate approval of ambulance medical personnel to perform skills and procedures previously granted under the established protocols;

(d) In his absence, approve or transfer authority for a supervising physician to temporarily act as medical director on the behalf of the Class III ambulance service during the period of his absence;

(e) Participate in the continuing education of the ambulance service medical personnel; and

(f) Participate in the development and implementation of monthly quality improvement utilization and review plans described in Section 10 of this administrative regulation.

(2) The medical director shall:

(a) Have completed a residency program in emergency medicine or other specialty appropriate to the mission statement of the provider;

(b) Be a physician who:

1. Has completed, or is in the process of completing the AHA ACLS provider course; and

2. Has certification in advanced trauma life support or basic trauma life support; or

3. Is a physician who has on file written approval from the licensing agency or lead agency which has been granted based on the physician's ability to document qualification by:

a. Patient population;

b. Experience; and

c. Current competency in patient care consistent with the mission statement of the provider.

(c) The medical director for a provider who exclusive mission is to provide critical care and transport of the neonatal infant shall:

1. Have completed fellowship training in neonatology;

2. Have completed a neonatal resuscitation provider (NRP) course; and

3. Be affiliated with a hospital or medical facility providing neonatal intensive care.

Section 10. Utilization Standards and Review. (1) A provider shall:

(a) Have utilization criteria or protocols of Class III transport; and

(b) Have policies and procedures concerning:

1. Patient population such as:

a. Adult;

b. Pediatric;

c. Obstetric; or

d. Neonate;

2. Patient destination;

3. Transport limitations; and

4. Availability of services.

(2) A Class III ambulance shall not be utilized for the transport of a patient unless:

(a) A request for transport has been made by the referring hospital; and

(b) The physician medical director or medical control physician has:

1. Reviewed the known medical information of the patient; and

2. Deemed that Class III ambulance transportation meets the utilization criteria or protocol of the service.

(3) A provider shall develop, implement and maintain records of a review process or quality improvement program to determine appropriate utilization of services.

(4) The review shall include the following:

(a) The extent or severity of patient injury or illness;

(b) Interventions performed or maintained;

(c) Transport outcome of the patient;

(d) Timeliness of the transport; and

(e) Conditions that may have greatly delayed or prevented Class I or Class II provider transportation, to the detriment of the patient. Documentation of the unavailability of appropriate Class I or Class II provider transportation shall be maintained as part of the review; or

(f) The need for a higher level of care than was available at the referring facility or location or during Class I or Class II provider transportation to the receiving facility.

(5) A semiannual cumulative report of the findings of the review of Class III ambulance utilization shall be on file at the Class III ambulance service base station.

Section 11. Material Incorporated by Reference. The following material is incorporated by reference and may be inspected, obtained, or copied at the Office of the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. to 4:30 p.m., Monday through Friday:

ADMINISTRATIVE REGISTER - 440

(1) Form EHS-8A, "Kentucky Emergency Medical Service Ambulance Run Report", (2/91).

(2) "Federal Specifications for Ambulances", KKK-A-1822 D (11/94), General Services Administration, Federal Supply Service, Washington, D.C. 20406.

RICE C. LEACH, Inspector General

JOHN MORSE, Secretary

APPROVED BY AGENCY: July 10, 1997

FILED WITH LRC: July 15, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 1997, at 9 a.m., in the Cabinet for Health Services Auditorium, 1st Floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending shall notify this agency in writing by August 14, 1997, of their intent to attend. If no notice of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notice of intent to attend the public hearing or written comments to: Mae B. Lewis, Cabinet Regulation Coordinator, Office of the Counsel, Cabinet for Health Services, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, Telephone: (502) 564-7900, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS

Agency Contact person: Robert Calhoun

(1) Type and number of entities affected: Approximately 10 to 20 licensed ambulance services and other organizations which may desire to provide this level of service.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented to the extent available from the public comments received. This administrative regulation will have no effect on the cost of living and employment in this state. However, additional jobs may be created by newly licensed Class III ground ambulance providers.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. This administrative regulation, when implemented, will have no effect on the cost of doing business in any geographical area within the state. This administrative regulation establishes a new licensing category called Class III ground ambulance providers. Costs to provide this service to existing licensed specialized ALS ground ambulance services will be minimal. A newly licensed service will incur costs between \$10,000 to \$50,000 for equipment and consumable supplies for each ambulance. Personnel costs will range from zero for volunteer services up to several thousands of dollars per attendant for paid services. Costs for ambulances will range from zero for services who already have vehicles to several thousand dollars for each vehicle purchased.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: Class III ground ambulance services will be required to meet the same reporting and paperwork requirements as licensed ambulance services. Since this is a specialized level of care, this administrative regulation will have no effect on costs or competition.

2. Second and subsequent years: As above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Additional staff time will be required to license and inspect Class III ground ambulance providers. The amount of staff

time will depend on the number of services licensed. It is estimated that it costs \$800-\$1000 to license and inspect a new service.

2. Continuing costs or savings: As above.

3. Additional factors increasing or decreasing costs: Travel costs and the number of services licensed.

(b) Reporting and paperwork requirements: Licensing files will have to be maintained.

(4) Assessment of anticipated effect on state and local revenues: Annual licensing fees may partially offset costs.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: General Funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:

(a) Geographical area in which administrative regulation will be implemented: It is not anticipated that this administrative regulation will have an economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were rejected because this administrative regulation complies with the requirements of KRS 211.952 to address specific requirements for Class III ground ambulance providers.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will have a beneficial effect on public health by established a mobile intensive level of ambulance transportation for critically ill and injured persons and will set minimum standards for this level of care.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: Yes

(c) If detrimental result would result, explain detrimental effect: There would be no minimum standards Class III ground ambulance providers would have to meet.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

(a) Necessity or proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. Tiering was not applied because this administrative regulation addresses only Class III ground ambulance providers.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes. Local governments may operate a new Class III ground ambulance service under a contract or an affiliation agreement as an extension of a licensed hospital.

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This administrative regulation will affect only those local governments which choose to license the service.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation relates to the provision of emergency medical services.

4. How does this administrative regulation affect the local government or any service it provides? This administrative regulation will not affect a local government. It may provide additional services for the community and generate income from the hospital agreement.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of July 8, 1997

The July meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, July 8, 1997, at 10 a.m. in Room 149 of the Capitol Annex. Representative John Arnold, Chairman, called the meeting to order, and the roll call was taken. The minutes of the June 10, 1997 meeting were approved.

Present were:

Members: Representative John Arnold, Chairman, Senators Nick Kafoglis, Joey Pendleton; Representatives Jimmy Lee, James Bruce, Woody Allen.

LRC Staff: Greg Karambellas, Steve Lynn, Donna Little, Susan Wunderlich, Angela Phillips, Donna Valencia, Susan Eastman, Don Hines, Zbigniew Downar, Christina Baker.

Guests: Representative Bob Damron; Pat Arnold, Jerri Robinson, Richard Carroll, Michael Schwendeman, Office of the Attorney General; Lucille Orlando, Military Affairs; Karen Powell, Chris Kellogg, Finance and Administration Cabinet; Dan Egbers, Mary Jane Cowherd, Personnel Cabinet; Frederick J. Snyder, Betty D. Claycomb, Revenue Cabinet; Lt. Mark Merriman, Kentucky State Police; Michael A. Mone', Board of Pharmacy; Joseph B. Helm, Jr., Real Estate Commission; Kenneth Hines, Mark D. Mangeot, John E. Hornback, Natural Resources and Environmental Protection Cabinet; Pamela Biggs, Brenda Priestley, Department of Corrections; Sandy Davis, Transportation Cabinet; Lynn Fluegge, Patricia J. Hoyt, Office of Teacher Education and Certification; Larry Moore, Sue Simon, Workforce Development Cabinet; Bill Ralston, Tim Chancellor, Labor Cabinet; Carla H. Montgomery, Gary Davis, Marcy Ches, S. B. Cox, Donna Terry, Department of Workers' Claims; Sharron S. Burton, David Howe, Department of Insurance; Deborah Eversole, Jeff Johnson, Public Service Commission; William E. Doyle, Department of Financial Institutions; Eric Friedlander, D. W. Swain, Ed Crews, Robert Calhoun, Danna E. Droz, Duane C. Dringenbury, John Gray, Karen Doyle, Trish Howard, Michael Littlefield, Cabinet for Health Services; Joyce Lea, Cookie Whitehouse, Mark Cornett, Paul Whitman, Marian Brooks, Pauletta Gilbert, Karen Hurt, Duane Fisher, Kellie Warren, Donna Canchola, David Carter, Alice Rodriguez, Charlotte Hardin, Cabinet for Families and Children; Robert L. Pruden, Kentucky Coalition to Carry Concealed, Inc.; Charles Puckett, Central Kentucky Militia; D. Mark Lyle, NRA; Guy Hardin, Kentucky Right to Bear Arms; Melissa Stevens; Donald A. Haobner; Nancy Galvagni, Kentucky Hospital Association; Jerry Deaton, KLC; Ted Bradshaw, Independent Agents; Lowell Reese, Kentucky Roll Call; John W. Hesse, Fern Creek Sportsman Club; Prentice Harvey, State Farm Insurance; David M. Finney, Farm Bureau Insurance; Jim Carlross, Kentucky Association of Realtors; John Brazel, Kentucky Chamber of Commerce; Robert L. Barnett, Kentucky Pharmacists Association; Julia Riggs; Marie Alagia Cull; Tom Dorman; Charles W. Jones.

NOTE: Due to technical malfunctions with the recording equipment, the Subcommittee meeting was not recorded in its entirety. This meeting of the Subcommittee was recorded through the discussion of 401 KAR 63:701. Beginning with the discussion on 501 KAR 6:020, this LRC Report has been compiled from the amendments made at the Subcommittee meeting and, where available, Subcommittee staff's recollection of the discussion.

The Subcommittee determined that the following administrative regulation was deficient:

Finance and Administration Cabinet: Office of the Secretary: Property

200 KAR 6:050(&E). Control of concealed deadly weapons in

buildings owned or leased by the executive and judicial branches of state government. Representative Bob Damron; Karen Powell, General Counsel, Finance and Administration Cabinet; Mary Jane Cowherd, Kentucky Employee Assistance Program, Personnel Cabinet; Betty D. Claycomb and Frederick J. Snyder, Revenue Cabinet; Marian Brooks, Donna Canchola, David Carter, Duane Fisher, Pauletta Gilbert, Karen Hurt, Alice Rodriguez, Kellie K. Warren, and Paul Whitman, Cabinet for Families and Children; Charlotte Hardin, Division of Disability Determinations; Lieutenant Mark Merriman, Kentucky State Police; Guy Hardin, Kentucky Right To Bear Arms; John W. Hesse, Fern Creek Sportsman Club; D. Mark Lyle, National Rifle Association; Robert L. Pruden, Kentucky Coalition To Carry Concealed, Inc.; Charles Puckett, Central Kentucky Militia; and Charles W. Jones appeared before the Subcommittee.

Ms. Powell stated that: (1) the Cabinet promulgated this administrative regulation as an emergency and ordinary administrative regulation to prevent carrying concealed deadly weapons in state-controlled buildings of the: (a) executive branch; and, (b) pursuant to the request of the Chief Justice, judicial branch of government; (2) this administrative regulation had generated a lot of controversy; (3) the Cabinet had held two public hearings on this administrative regulation; (4) notwithstanding the controversy, the Cabinet decided to promulgate this administrative regulation; and (5) an Opinion of the Attorney General stated that the Cabinet had statutory authority to promulgate this administrative regulation.

Representative Damron: (1) stated that: (a) he was opposed to this administrative regulation because it was not authorized by statute; and (b) it violated House Bill 40, which granted the authority to ban carrying concealed weapons to the legislative body of a unit of government; and (2) requested that the Subcommittee find this administrative regulation deficient, because the Cabinet was not granted authority to ban the carrying of concealed weapons.

In response to questions by Representative Bruce, Representative Damron stated that: (1) he was the primary sponsor of House Bill 40; (2) while an all-day discussion on the philosophy of firearms could be held, the real issue was the authority granted by House Bill 40 to the legislative body, not the Cabinet, to govern the carrying of concealed weapons; (3) under the provisions of House Bill 40, the Cabinet clearly did not have statutory authority under House Bill 40 to promulgate this administrative regulation; and (4) this administrative regulation should be found deficient because it did not comply with House Bill 40.

Representative Bruce stated that if this administrative regulation was found deficient, and the Cabinet believed it should be authorized to ban carrying concealed weapons, the Cabinet could request the enactment of legislation specifically granting it authority.

Chairman Arnold stated that the: (1) issues raised by this administrative regulation should be resolved; and (2) Subcommittee could: (a) find this administrative regulation deficient; (b) approve this administrative regulation; or (c) request that it be referred to the appropriate legislative subcommittee for study and submission to the General Assembly for legislation. Representative Bruce stated that the administrative regulation should be found deficient.

Mr. Pruden stated that: (1) he was the secretary-treasurer of the Kentucky Coalition To Carry Concealed, Incorporated, a non-profit corporation; (2) had submitted a statement to the Subcommittee; (3) on page 3 of the Cabinet's Statement of Consideration, in Section 1(b), it was stated that as an agency of state government the Cabinet recognized the opinions of the Attorney General; (4) he accepted this recognition; (5) as an IRS revenue agent, he had to recognize revenue rulings, the opinions of the commissioner of internal revenue; (6) taxpayers and the courts are not required to recognize the primacy of revenue rulings; (7) as legislators, Subcommittee members are not

obliged to accept the Attorney General opinion, especially one, such as OAG 96-45, with flawed reasoning; (8) in 1993, the author of OAG 96-45 also wrote OAG 93-71, it was stated that, with regard to the regulation of firearms by cities of the first class, if the General Assembly could and wished to delegate to a municipal body its authority to legislate with respect to the right to bear arms, it must do so with specificity; (9) in 1996, the author reversed his determination and stated that: (a) specificity was not required; and (b) sufficient leeway for cabinet action was found in KRS 237.115(2), because the law did not provide that only the legislative body may impose a restriction against carrying concealed weapons; (10) despite the fact that the General Assembly did not specifically delegate authority to the Cabinet, the author now had found that the executive branch could usurp the power of the legislative branch; (11) the written statement he had submitted to the Cabinet on this administrative regulation was totally misrepresented on page 3, Section 2(a), of the Cabinet's Statement of Consideration; (12) contrary to the requirement of KRS 13A.015(2)(f)3., the Cabinet had not provided the required statement of the necessity for this administrative regulation; (13) contrary to the requirements of KRS 13A.240(1)(h), the Regulatory Impact Analysis submitted by the Cabinet did: (a) not provide an assessment of the expected benefits of this administrative regulation; and (b) provided information required by KRS 13A.240(1)(i), which it incorrectly labeled as a response to the requirements of 13A.240(1)(h); and (14) while the Cabinet's statement, on page 6 of the Cabinet's Statement of Consideration, that state employees had the right to say whether or not people may enter the workplace carrying concealed weapons, was politically correct and seemed eminently reasonable, it is unquestionably unconstitutional, because the Kentucky Constitution grants the right to make this determination to the General Assembly.

Ms. Cowherd stated that: (1) she was a: (a) state employee in the Employees Assistance Program of the Personnel Cabinet; and (b) member of the Prevention of Violence In the Workplace Committee and (2) she supported this administrative regulation and its prohibition against carrying concealed weapons in the workplace; (3) her job: (a) was to help employees or employees' dependents who are dealing with personal problems, which frequently included chemical dependency and psychiatric disorders, domestic violence, financial problems; and (b) included working with state government managers and personnel administrators who deal with employees who had such problems and job performance problems; (4) in the last several years, she had received an increasing number of calls from employees and managers concerned about co-workers and the potential for violence; (5) just as the workplace no longer tolerated sexual harassment, it no longer tolerated threats or acts of violence; (6) Employees Assistance receives a number of calls concerning violence issues; (7) situations in which employees considered hurting themselves or others were already serious; (8) to add concerns about the carrying of concealed weapons to existing issues relating to violence raised the volatility of the situation to a higher level; (9) the number one reason for the death of women at work was because they were killed by a spouse or significant other; (10) granting permission to non-employees to carry concealed weapons into the workplace would increase the opportunity for an abusive partner to murder or harm not only the partner but also any state co-worker standing near-by; (11) by their very nature, the jobs of some state employees that are carried out for the benefit of all citizens make citizens unhappy, such as: (a) family services workers investigating child and spouse abuse; (b) revenue employees requiring citizens and businesses to pay taxes; (c) child support employees who intercept the tax refunds of citizens; (d) welfare workers who deny or cut benefits; (e) inspectors who insure the compliance of businesses with environmental and safety laws; and (f) professional licensure boards that can revoke licenses and prevent a professional from practicing his profession; (12) some of these employees are already so concerned about their safety that they have unlisted telephone numbers and live in counties in which

they do not work; (13) allowing unhappy citizens to carry concealed weapons into the workplace increases the likelihood that employees will be harmed at work; (14) her office had: (a) received a lot of requests for training on the topic of violence in the workplace; and (b) provided this training, prior to the development by Governmental Services of an all-day training program that already had trained over 500 state employees on the issue of violence in the workplace; (15) the evaluation of state employees occurred twice a year, and: (a) supervisors who were concerned about violence would be less likely to confront poor employee performance; and (b) employee performance would decrease if a supervisor was worried that an employee was carrying a concealed weapon; (16) the security measures in many state government buildings had already been increased by the: (a) addition of security officers; (b) requirement for: 1. picture identification cards; 2. logs for signing in and out; and 3. locked entrances; and (b) provision of escort services; (17) not all offices in every county can afford this level of protection; (18) prohibiting the carrying of concealed weapons was an inexpensive and public display of concern for the safety of state employees; and (19) she: (a) strongly supported this administrative regulation; and (b) believed that it was crucial for state government to take this step to protect its most valuable resource, its employees.

Mr. Whitman: (1) stated that: (a) he: 1. was a district manager with the Department for Social Services, Cabinet for Families and Children; and 2. supported this administrative regulation; (b) every day, workers were in the field in the middle of very violent situations during which they had the least protection, such as the removal of children from homes and domestic violence issues, which made people very angry and placed workers at risk; and (2) on behalf of the Cabinet requested the Subcommittee to approve the ban on carrying concealed weapons in the office that was imposed by this administrative regulation in order to help insure the safety of workers.

Ms. Claycomb stated that: (1) she was the Taxpayer Ombudsman for the Revenue Cabinet; (2) had been a state employee for over 28 years; (3) worked every day with taxpayers to resolve problems and conflicts relating to Cabinet action; (4) because someone failed to respond and the computer generated Cabinet action: (a) tax liens were filed daily; (b) levies were issued on bank accounts; and (c) property was seized; (5) taxpayers often were frustrated by the inability to resolve conflicts related to these actions; (6) situations had gotten out of hand; (7) as supervisor of the inheritance tax section a few years ago, she had been called to escort a taxpayer to her back, inner office to discuss an estate, and backed against the wall and abused verbally and by the shaking of paper in her face by the taxpayer; (8) if people are allowed to carry concealed weapons, employees and taxpayers will be put at risk, because no one knows what will occur; (9) even though the Revenue Cabinet had established security measures in its buildings, it was very concerned over the safety of its employees and taxpayers; (10) regardless of intent, inappropriate behavior can easily occur, and even rational people can act or react irrationally; and (11) she: (a) supported this administrative regulation; and (b) requested the Subcommittee to approve it.

In response to a question by Representative Lee, Ms. Claycomb stated that the Cabinet did not have a metal detector system. Ms. Claycomb agreed with Representative Lee's statements that even if a sign was posted stating that weapons were prohibited: (1) it could not be known whether people were carrying arms; or (2) whether people had been carrying arms into a building before the enactment of House Bill 40; (3) it would not ensure that someone would not bring an unregistered weapon into a building.

Mr. Hesse stated that: (1) he was: (a) with the Fern Creek Sportsman Club in Jefferson County; and (b) a director of Kentucky Coalition To Carry Concealed, Inc.; (2) many of the comments made to the Subcommittee related to people's feelings, rather than the law; (3) this administrative regulation was promulgated as an emergency administrative regulation, even though an emergency did not exist; (4) he opposed this administrative regulation; (5) Personnel Cabinet and

Revenue personnel opposition to this administrative regulation related to their feelings and fears; (6) such fears were groundless, because nothing had or would happen; (7) people who would cause trouble would never obtain permits to carry concealed weapons; (8) people who entered government buildings every day without having obtained permits were not concerned about the signs prohibiting the carrying of concealed weapons; (9) whatever action the Subcommittee took or did not take, problems related to such people would not be solved; (10) signs or administrative regulations would not: (a) solve the problem; or (b) deter criminals; (11) being criminals, criminals would not obey the law; (12) at the agency public hearing, a speaker discussed assassinations over the last hundred years, which: (a) was irrelevant; and (b) had not occurred in Kentucky or in public office; (13) violence in the workplace would not be solved by signs banning the carrying of concealed weapons; (14) some speakers discussed their adversarial relationship with the public; (15) a solution of the problems in the workplace required working on: (a) this relationship; and (b) personal problems of state employees, such as drug, alcohol, spouse abuse, or significant other problems; (16) these issues are not relevant; (17) the General Assembly, rather than the Governor, enacts legislation; (18) the issue that needed to be addressed by the Subcommittee was that, by the promulgation of this administrative regulation, the Governor had exceeded his authority; and (19) in the future, it should be determined: (a) how the signs came about in the first place; (b) who funded the signs; (c) the amount expended; (d) why taxpayers were paying for action that was illegal.

Representative Allen stated that: (1) he was unclear as to the end sought by some of the speakers; (2) if the fear was that they would be gunned down in an office building, the ban on concealed weapons would not prevent a person who intended to shoot someone in a building, because he would: (a) not be likely to have obtained a permit for his weapon; and (b) be likely to carry one whether or not a: 1. sign banning the carrying of concealed weapons was posted; or 2. permit to carry was required; (3) he believed that the intent of House Bill 40 was to ensure that: (a) citizens were law-abiding; and (b) people with valid fears, such as women whose office was located in a rough part of town and who feared rape, robbery, or mugging, or who were afraid of a spouse, could obtain a permit and legally carry a weapon to protect themselves; (4) the permit was intended to protect people; (5) generally, the people who obtain permits are not the ones one had to be worried about; and (6) the people one had to worry about were those who would not obtain a permit and who would not be concerned about signs prohibiting the carrying of concealed weapons into a building.

Representative Bruce stated that: (1) House Bill 40 did not grant the Cabinet the authority to promulgate this administrative regulation; (2) if the Cabinet wanted the authority, it should request the General Assembly to grant it such authority at its next Regular Session; and (3) because this administrative regulation would not expire prior to adjournment of the next Regular Session, the Cabinet would have time to present the issue to the General Assembly.

The Subcommittee approved a motion by Representative Bruce to find this administrative regulation deficient because it exceeded statutory authority.

Representative Lee stated that: (1) regardless of whether one approved or disapproved of this administrative regulation, the purview of the Subcommittee was to decide whether this administrative regulation conformed to the provisions of KRS Chapter 13A; (2) this administrative regulation did not conform to KRS Chapter 13A, because it did not comply with House Bill 40; (3) if the Cabinet wished, it could request the General Assembly at its 1998 Regular Session to amend legislation to grant it the authority to ban carrying concealed weapons on state property; (4) the duty of the Subcommittee members was to determine whether or not this administrative regulation conform to KRS Chapter 13A; and (5) because it did not, he voted to find this administrative regulation deficient.

Representative Bruce stated that: (1) Representative Lee's

statement reflected his opinion; and (2) the duty of the Subcommittee was to determine whether an administrative regulation complied with KRS Chapter 13A.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Department of Law: Division of Consumer Protection

40 KAR 2:250. Filing of annual reports by cemeteries. Michael Schwendeman, Assistant Attorney General with Consumer Protection, represented the Department.

In response to a question by Representative Allen, Mr. Schwendeman stated that: (1) this administrative regulation required a non-exempt cemetery to file an annual report with the Division; (2) KRS 367.932 exempted certain cemeteries from the: (a) definition of cemetery; and (b) statutory requirements relating to cemeteries; (3) the exempted cemeteries included: (a) most small, private family cemeteries; and (b) most church cemeteries; (4) there were church cemeteries that were not exempt; (5) this administrative regulation: (a) did not address which cemeteries were required to file the annual report; and (b) required each cemetery to file the annual report on the same established due date; (5) KRS 367.946 required the annual report to ensure that a cemetery placed the required amount of money from a sale of grave space into an irrevocable trust fund for perpetual care and maintenance; (6) the annual report would reflect whether a cemetery did not sell cemetery merchandise in a specific year; and (7) a cemetery that did not sell cemetery merchandise could become exempt from the filing requirements.

In response to a question by Representative Lee, Mr. Schwendeman stated that: this administrative regulation did not: (1) place an additional charge on cemeteries for filing the annual report; and (2) change the amount of the fee that was required by statute.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (2) Sections 1 through 3 were amended to: (a) clarify the requirements for filing the annual report; and (b) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4); and (3) a new section, Section 4, was created to incorporate the required form by reference.

40 KAR 2:260. Filing of annual reports by preneed burial licensees. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); (2) Sections 1 through 3 were amended to: (a) clarify the requirements for filing the annual report; and (b) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4); and (3) a new section, Section 4, was created to incorporate by reference the required form.

Medical Examination of Sexual Abuse Victims

40 KAR 3:010. Payment schedule to hospitals, physicians and sexual assault nurse examiners for medical examinations of victims of sexual offenses. Pat Arnold represented the Office of the Attorney General.

In response to a question by Representative Lee, Ms. Arnold stated that the rate schedule: (1) applied if the state paid for the service; and (2) did not apply to a private pay situation.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); and (3) Section 1 was amended to: (a) delete language that repeated or summarized statutes, as required by KRS 13A.120(2)(e) and (f); (b)

establish a standard for the types of examinations for which the Attorney General would pay; and (c) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4).

Board of Pharmacy

201 KAR 2:225. Special pharmacy permit-medical gasses. Michael Moné, Executive Director, represented the Board.

This administrative regulation was amended as follows: (1) the TITLE was amended to delete a phrase; (2) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (3) Sections 1 through 4 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); (4) Section 3 was amended to: (a) delete language that related to appeals because the appeals administrative regulation established the right to appeal; and (b) clearly provide for the governance of medical gasses; and (5) Section 4 was amended to insert a cross-reference to the fee administrative regulation.

Real Estate Commission

201 KAR 11:400. Agency disclosure requirements. Joseph Helm, Executive Director, represented the Commission.

Subcommittee staff stated that: (1) the issue of whether a commercial transaction should be exempted from the requirements of this administrative regulation was raised: (a) when this administrative regulation was considered by the Subcommittee at its June 6, 1996, meeting; and (b) in the initial staff review; and (2) the amendment to this administrative regulation: (a) amended the NECESSITY, FUNCTION, AND CONFORMITY paragraph to: 1. clearly state the necessity for the administrative regulation; and 2. explain that the administrative regulation: a. established a specific form for disclosing the relationship between an agent, broker, buyer, or seller of real estate property in a residential transaction, not a commercial transaction; b. required notification to each party of the existing relationships; and c. have documented evidence that the disclosure had occurred; and (b) amended Sections 1 through 5 to: 1. delete the requirement that the agency information bulletin: a. contain specified information; and b. be approved by the commission; 2. require the agency information bulletin: a. be prepared by the agent or sales broker; and b. explain the possible relationships that might exist between a seller, buyer, and the sales agent in a real estate transaction; 3. specify the information required by the disclosure form; and 4. comply with the drafting and formatting requirements of KRS Chapter 13A.

In response to questions by Representative Lee, Mr. Helm stated that: (1) this administrative regulation: (a) provided clarification of the description of the fiduciary duties which an agent was required to disclose in a residential real estate transaction; and (b) exempted commercial transactions from the requirement of using the specific disclosure procedure and form required by this administrative regulation; (2)(a) did not affect the duty of an agent in a commercial transaction to: 1. disclose dual agency, which was separately required by statute [KRS 324.160(1)(e)]; or 2. conduct himself in accordance with the common law of agency; (b) already exempted a commercial transaction from the requirement that the parties be identified; and (c) technically eliminated that exception from the language of this administrative regulation because it completely excluded commercial transactions from its provisions; and (3) would still permit an unnamed principal by an agent in a commercial transaction.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); and (2) Sections 1 through 5 were amended to: (a) delete the requirement that the agency information bulletin: 1. contain specified information; and 2. be approved by the commission; (b) require an agency

information bulletin: 1. be prepared by the agent; and 2. explain the possible relationships that may exist between the parties; (c) specify the information required on the disclosure form; and (d) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4).

Justice Cabinet: Department of Corrections: Division of Adult Institutions

501 KAR 6:040. Kentucky State Penitentiary. This administrative regulation was amended as follows: (1) KSP 15-01-01, B.1.c. was amended to include a paragraph requiring an inmate to get a new I.D. card if his appearance changed, pursuant to KRS 13A.222(4)(a); (2) KSP 15-01-01, B.7. was amended to require that shoes, shirts, and pants be worn while visiting the canteen or health care facility, pursuant to KRS 13A.222(4)(a); and (3) KSP 15-01-01, B.9. was amended to comply with the drafting requirements of KRS 13A.222(4)(b).

501 KAR 6:120. Blackburn Correctional Complex. This administrative regulation was amended as follows: (1) pursuant to KRS 13A.222(4)(a), BCC 01-07-01, B.1.a. was amended to provide that a weapon not be discharged, except in training; (2) pursuant to KRS 13A.120(2)(i), BCC 08-04-01, L.6. was amended to provide that the Fire Chief be contacted to investigate the cause of a fire in accordance with KRS 227.370(1); (3) pursuant to KRS 13A.222(4)(a), BCC 14-06-01, B. was amended to provide that an inmate pay for use of the library copy machine; (4) pursuant to KRS 13A.222(4)(a), BCC 22-04-02 was amended to provide for the: (a) manner of formation of an organization; (b) approval of the organization by authorities; and (c) purpose for which an organization may be formed; (5) BCC 23-01-01 was amended to include a cross reference to KRS Chapter 402; and (6) BCC 01-07-01, 08-04-01, 08-05-01, 08-06-01, 10-01-02, 12-02-01, 14-04-01, 15-05-01, 22-04-04, and 23-01-01 were amended to comply with the drafting requirements of KRS 13A.222(4).

Transportation Cabinet: Department of Highways: Division of Aeronautics: Airport Zoning Commission

602 KAR 50:090. Permit application procedures. Sandra Pullen Davis, Assistant to the Secretary, represented the Cabinet. This administrative regulation was amended as follows: (1) Section 2(2) was amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); and (2) Sections 3(2), 3(3), and 4(2) were amended to comply with the drafting requirements of KRS 13A.222(4).

602 KAR 50:100. Standards for marking or lighting structures. Section 4 of this administrative regulation was amended to comply with the drafting requirements of KRS 13A.222(4)(a).

602 KAR 50:120. Reconsideration and administrative hearing procedures. Section 2(5) of this administrative regulation was amended to delete the word "of".

Education Professional Standards Board

704 KAR 20:696. Standards for accreditation of teacher education units and approval of programs. Lynn Fluegge, Office of Teacher Education and Certification, represented the Board.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 19 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); (2) Section 2 was amended to clarify the accreditation requirements; (3) Sections 5, 7, and 11 were amended to correct citations to relevant statutes and administrative regulations; and (4) a reference was changed to the Council on Postsecondary Education from the Council on Higher Education, to comply with House Bill 1 from the 1997 Special Session.

Labor Cabinet: Department of Workers Claims: Workers' Claims

803 KAR 25:010 & E. Procedure for adjustments of claims. Carla

Montgomery and Donna Terry represented the Department.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct statutory citations; (2) Section 4, 8, 11, and 27 were amended to permit the use of optional sample forms in preparing a motion; (3) Sections 5, 6, and 7 were amended to clarify the applicable deadlines; (4) Sections 8 and 18 were amended to clearly establish the requirements for use of written questions and answers as evidence; (5) Section 21 was amended to require a party filing a petition for reconsideration to tender a proposed order granting the relief requested; (6) Section 22 was amended to require a party involved in a lump-sum settlement of future periodic payments to use the 6% present value table; and (7) Section 31 was amended to incorporate the sample forms and the 6% present value table by reference.

803 KAR 25:200 & E. Workers' compensation notice. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); (2) Sections 1 and 3 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); and (3) Section 1 was amended to clearly establish the notice requirements.

803 KAR 25:210 & E. Affidavit of exemption from KRS Chapter 342. This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct a statutory citation; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); and (3) Sections 1 and 2 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

803 KAR 25:220 & E. Guaranty funds. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); and (3) Sections 1 and 2 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

803 KAR 25:230 & E. Employee leasing. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); (3) Sections 1 and 2 were amended to clearly establish the requirements for registration and the employee lessee information form; (4) Section 3(1) was amended to delete language that summarized or repeated KRS 342.615(4), as required by KRS 13A.120(2)(e) and (f); and (5) Sections 1 through 5 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Public Service Commission: Utilities

807 KAR 5:063. Filing requirements and procedures for proposals to construct telecommunications antenna towers. Deborah Eversole, Jeff Johnson, and Tom Dorman represented the Commission.

Subcommittee staff stated that: (1) this administrative regulation was deferred at the June 10, 1997 meeting of the Subcommittee to give the Commission the opportunity to work on an amendment with the Jefferson County Planning and Zoning Commission; (2) the amendment resolved the issues that had been raised at the June 10 meeting; and (3) the parties who had requested the deferral had sent letters to the Subcommittee in support of the amendment.

This administrative regulation was amended as follows: (1) Section 2 was amended to: (a) clarify the notice requirements; (b)

require a utility to include a specified statement regarding the Commission's review of the proposed construction in the public notice; and (c) require a statement that a copy of the statement was sent to the affected planning commission; and (2) Section 3 was amended to require notice to persons who had submitted testimony to the planning commission during its review of the proposed facility.

Department of Financial Institutions: Securities

808 KAR 10:225. Procedural regulation governing hearing and hearing related procedures for matters before the Department of Financial Institutions. William Doyle, Staff Attorney, represented the Department.

This administrative regulation was amended as follows: (1) the TITLE was amended to clearly reflect the subject matter of the administrative regulation; (2) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (3) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); and (4) Sections 1 through 29 were amended to: (a) delete language that repeated or summarized KRS Chapters 13B or 292 and the Kentucky Rules of Civil Procedure, as required by KRS 13A.120(2)(e) and (f); (b) delete language that modified or vitiated KRS Chapters 13B or 292, as required by KRS 13A.120(2)(i); and (c) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4).

Cabinet for Families and Children: Department for Social Insurance: Division of Management and Development

904 KAR 2:015 & E. Supplemental programs for persons who are aged, blind, or have a disability. Mark Cornett and Joyce Lea represented the Cabinet.

This administrative regulation was amended as follows: (1) Sections 2, 3, 5, 6, 7, and 13 were amended to comply with the drafting requirements of KRS 13A.222(4); and (2) Section 10(5)(a) was amended to list the types of I.Q. tests used by the Department to determine disability, pursuant to KRS 13A.100.

Cabinet for Health Services: Department for Medicaid Services: Division of Administration and Development

907 KAR 1:270. Podiatry program services. Karen Doyle and Duane Dringenburg represented the Department.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 were amended to comply with the (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

907 KAR 1:280. Payments for podiatry program services. This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

907 KAR 1:413. Repeal of 907 KAR 1:412. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to: (a) state the reason 907 KAR 1:412 was being repealed, as required by KRS 13A.310(3)(a), and (b) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4).

907 KAR 1:433. Repeal of 907 KAR 1:374 and 907 KAR 1:378. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to: (a) state the reasons 907 KAR 1:374 and 1:378 were being repealed, as required by KRS 13A.310(3)(a), and (b) comply with the: 1. format

requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4).

The Subcommittee determined that the following administrative regulations complied with statutory requirements:

Military Affairs: Emergency Response Commission: Disaster and Emergency Services

106 KAR 1:091E. Kentucky Emergency Response Commission fee account grant requirements for local emergency planning committees. Lucille Orlando represented the Commission. Ms. Orlando stated that this administrative regulation provided an additional 60 days for a local emergency planning commission to complete planning requirements in order to be eligible to receive a state grant.

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division for Air Quality: General Standards of Performance

John Hornback, Director of the Division of Air Quality, represented the Cabinet. Mr. Hornback stated that: (1) the 11 administrative regulations considered by the Subcommittee (listed below): (a) adopted, without change, federal requirements that had already been established by federal regulation; and (b) applied to certain types of businesses; and (2) sources in Kentucky, from a federal standpoint, were already required to comply with these requirements.

In response to a question by Representative Bruce, Mr. Hornback stated that these administrative regulations were exactly the same as the federal regulations.

In response to a question by Chairman Arnold, Mr. Hornback stated that this administrative regulation applied to: (1) miscellaneous organic chemical manufacturers; (2) chromium platters; (3) gasoline bulk distribution facilities; (4) magnetic tape operations; (5) solvent cleaners; (6) ethylene oxide sterilizers; and (7) similar emissions sources.

In response to questions by Representative Bruce, Mr. Hornback stated that: (1) this administrative regulation required a bulk gasoline dealer to: (a) use seals on tanks; (b) keep records; (c) report; and (d) perform vapor recovery at the loading racks; (2) in metropolitan areas with ozone problems, vapor collection facilities already were in place; (3) this may be new to other areas that had facilities, but did not collect the emissions; (4) he thinks some facilities are already complying with these requirements; (5) he was not sure about Hopkinsville or Union County; and (6) if these administrative regulations are not approved, there would still be an obligation under federal law for a source to comply.

401 KAR 63:101. National emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry.

401 KAR 63:110. National emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry for process vents, storage vessels, transfer operations, and wastewater.

401 KAR 63:160. National emission standards for organic hazardous air pollutants for equipment leaks.

401 KAR 63:190. National emission standards for organic hazardous air pollutants for certain processes subject to the negotiated regulation for equipment leaks.

401 KAR 63:340. National emission standards for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks.

401 KAR 63:360. Ethylene oxide emissions standards for sterilization facilities.

401 KAR 63:400. National emission standards for hazardous air pollutants for industrial process cooling towers.

401 KAR 63:420. National emission standards for gasoline distribution facilities (bulk gasoline terminals and pipeline breakout

stations).

401 KAR 63:460. National emission standards for halogenated solvent cleaning.

401 KAR 63:520. National emission standards for hazardous air pollutants for epoxy resins production and non-nylon polyamides production.

401 KAR 63:701. National emission standards for magnetic tape manufacturing operations.

Transportation Cabinet: Department of Highways: Division of Aeronautics: Airport Zoning Commission

602 KAR 50:010. Definitions relating to 602 KAR Chapter 50.

602 KAR 50:060. Construction within jurisdictional airspace.

602 KAR 50:070. Standards for determining obstructions.

Education Professional Standards Board

704 KAR 20:440. Repeal of 704 KAR 20:001, 704 KAR 20:002, 704 KAR 20:032, and 704 KAR 20:040. Lynn Fluegge, Office of Teacher Education and Certification, represented the Department.

704 KAR 20:706. Admission, placement, and supervision in student teaching.

Workforce Development Cabinet: Department for Employment Services: Division of Unemployment Insurance

787 KAR 1:210(&E). Employer contribution rates. Larry Moore, Assistant to the Director, and Sue Simon, General Counsel, represented the Department.

Labor Cabinet: Department of Workplace Standards: Division of Occupational Safety and Health Compliance: Division of Occupational Safety and Health Education and Training: Occupational Safety and Health

Bill Ralston and Tim Chancellor represented the Department. In response to a question by Chairman Arnold and Representative Bruce, Mr. Ralston stated the administrative regulations listed below adopted the federal regulations without change.

803 KAR 2:301 & E. Adoption and extension of established federal standards.

803 KAR 2:306 & E. Occupational health and environmental control.

803 KAR 2:308 & E. Personal protective equipment.

803 KAR 2:320 & E. Air contaminants.

803 KAR 2:402 & E. General safety and health provisions.

803 KAR 2:403 & E. Occupational health and environmental controls.

803 KAR 2:404 & E. Personal protective and life saving equipment.

803 KAR 2:405 & E. Fire protection and prevention.

803 KAR 2:410 & E. Electrical.

803 KAR 2:411 & E. Scaffolds.

803 KAR 2:424 & E. Diving.

803 KAR 2:425 & E. Toxic and hazardous substances.

803 KAR 2:500 & E. Maritime employment.

803 KAR 2:900E. Repeal of 803 KAR 2:302. (Deferred from May)

Department of Insurance: Authorization of Insurers and General Requirements

806 KAR 3:190. Risk-based capital for insurers. Sharron Burton and David Howe represented the Department.

Cabinet for Health Services: Department for Public Health: Emergency Medical Services and Ambulance Service Providers

902 KAR 14:061. Repeal of 902 KAR 14:060. Robert Calhoun represented the Department.

Controlled Substances

902 KAR 55:040. Excluded over-the-counter products. Danna Droz and Ed Crews represented the Department.

ADMINISTRATIVE REGISTER - 447

902 KAR 55:045. Exempt prescription products.
902 KAR 55:090. Exempt anabolic steroid products.

Cabinet for Families and Children: Department for Social Insurance: Food Stamp Program 904 KAR 3:010 & E. Definitions.

The following administrative regulations were deferred to the next Subcommittee meeting upon agreement by the Subcommittee and the promulgating agency:

Legislative Research Commission: Capital Planning Advisory Board

1 KAR 6:020. Policies and procedures.

Personnel Cabinet: Unclassified

101 KAR 3:045E. Compensation plan and compensation incentive systems.

Board of Ophthalmic Dispensers

201 KAR 13:080. Inspection of establishments.

Board of Social Work

201 KAR 23:011. Repeal of 201 KAR 23:010, 201 KAR 23:030, 201 KAR 23:040, 201 KAR 23:100, and 201 KAR 23:110.

201 KAR 23:020. Fees.

201 KAR 23:060. Licensed social workers, certified social workers, and licensed clinical social workers.

201 KAR 23:070. Qualifying education and qualifying experience under supervision.

201 KAR 23:080. Code of ethical conduct.

201 KAR 23:140. Per diem compensation for board members.

Department of Agriculture: Division of Markets: Organic Agricultural Product Certification

302 KAR 40:010. Standard organic agricultural product requirements.

Justice Cabinet: Department of Corrections: Division of Adult Institutions: Office of the Secretary

501 KAR 6:020. Corrections policies and procedures. At the request of Representative Bruce, the agency agreed to defer consideration of this administrative regulation.

501 KAR 6:060. Northpoint Training Center.

501 KAR 6:130. Western Kentucky Correctional Complex.

Department of Juvenile Justice: Child Welfare

505 KAR 1:020E. Internal grievance procedure.

505 KAR 1:030E. DJJ policy and procedures manual.

Workforce Development Cabinet: Department for Adult and Technical Education: Personnel System for Certified and Equivalent Employees

780 KAR 3:070. Attendance, compensatory time, and leave.

780 KAR 3:080. Extent and duration of school term, use of school days and extended employment.

Unclassified Personnel Administrative Regulations

780 KAR 6:060. Attendance, compensatory time, and leave.

Department of Insurance: Rates and Rating Organizations

806 KAR 13:130E. Experience modification factors for workers' compensation insurers.

806 KAR 13:140E. Notice of right to seek review of application of workers' compensation insurance rates.

Health Maintenance Organizations

806 KAR 38:090E. Open enrollment.

Kentucky Racing Commission: Harness Racing

811 KAR 1:090E. Stimulants and drugs.

Cabinet for Health Services: Certificate of Need

900 KAR 6:015E. Certificate of need matters. Nancy Galvagni, Kentucky Hospital Association, stated that: (1) she was concerned that the emergency administrative regulations that would be promulgated upon the expiration of this administrative regulation and 902 KAR 17:035E would virtually eliminate Certificate Of Need review for projects not addressed in the State Health Plan; (2) items such as home health, MRIs, ambulatory surgery centers that are now covered, could be removed from Certificate of Need review; (3) the General Assembly, rather than the Cabinet, should determine what is reviewable; and (4) the Cabinet had met with regulated entities concerning this issue.

John Gray, Director of the Certificate of Need Office, stated that the Cabinet was working with the concerned parties in the promulgation of the new emergency administrative regulations that would be filed on July 15, 1997.

Department for Public Health: Division of Health Systems Development: State Health Plan

902 KAR 17:035E. State health plan for facilities and services.

Division for Environmental Health and Community Safety: Radiology

902 KAR 100:040. General provisions for specific licenses.

Cabinet for Families and Children: Department for Social Insurance: Division of Management and Development: Public Assistance

904 KAR 2:006E. Technical requirements for the Kentucky Transitional Assistance Program (K-TAP).

904 KAR 2:016E. Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP).

904 KAR 2:017E. Kentucky Works supportive services.

904 KAR 2:370E. Technical requirements for Kentucky Works.

Food Stamp Program

904 KAR 3:020E. Financial requirements.

904 KAR 3:042E. Food Stamp Employment and Training Program.

Department for Social Services: Division of Family Services: Child Welfare

905 KAR 1:180E. DSS policy and procedures manual.

Cabinet for Health Services: Department for Medicaid Services: Division of Administration and Development: Medicaid Services

907 KAR 1:022E. Nursing facility and intermediate care facility for the mentally retarded services.

907 KAR 1:025E. Payments for nursing facility and intermediate care facility for the mentally retarded services.

907 KAR 1:160E. Home and community based waiver services.

907 KAR 1:170E. Payments for home and community based waiver services.

907 KAR 1:645. Resource standards for Medicaid.

907 KAR 1:655. Spousal impoverishment and nursing facility requirements for Medicaid.

907 KAR 1:665. Special income requirements for alternative intermediate services for individuals with mental retardation (AIS-MR), hospice, and home and community based services (HCBS).

907 KAR 1:720E. Coverage and payments for the Kentucky Early Intervention Program services provided through an agreement with the state Title V agency.

Department for Mental Health and Mental Retardation Services: Mental Health

908 KAR 2:200E. Coverage and payment for Kentucky Early Intervention Program services.

The Subcommittee adjourned at noon until August 12, 1997 at 10 a.m. in Room 149 of the State Capitol Annex.

ADMINISTRATIVE REGISTER - 448

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE Meeting of June 24, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Banking and Insurance during its meeting of June 24, 1997, having been referred to the Committee on June 16, 1997, pursuant to KRS 13A.290(6): 806 KAR 4:010.

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): none

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: none

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: 806 KAR 4:010

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the June 24, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

The Committee requested LRC approval of a subcommittee to review the regulation and make recommendations to the Banking and Insurance Committee at its meeting to be held, subject to LRC approval, on July 15, 1997.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT Meeting of June 25, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Local Government during its meeting of June 25, 1997, having been referred to the Committee on June 10, 1997, pursuant to KRS 13A.290(6):

815 KAR 15:026
815 KAR 20:020
815 KAR 20:070
815 KAR 20:090

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the June 25, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE Meeting of June 18, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Health and Welfare during its meeting of June 18, 1997, having been referred to the Committee on June 16, 1997, pursuant to KRS 13A.290(6):

201 KAR 2:106
201 KAR 20:057
905 KAR 2:140
905 KAR 5:080
905 KAR 8:160
905 KAR 8:180
907 KAR 1:013 & E
907 KAR 1:028
907 KAR 1:038 & E
907 KAR 1:405
907 KAR 1:631 & E
908 KAR 2:060

The committee approved the previously listed administrative regulations which is reflected in the Minutes of the June 18, 1997 meeting, which are hereby incorporated by reference.

INTERIM JOINT COMMITTEE ON TRANSPORTATION Meeting of July 1, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Transportation during its meeting of July 1, 1997, having been referred to the Committee on June 16, 1997, pursuant to KRS 13A.290(6):

600 KAR 3:010
601 KAR 1:025

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

ADMINISTRATIVE REGISTER - 449

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the July 1, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON EDUCATION Meeting of July 2, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Education during its meeting of July 2, 1997, having been referred to the Committee on June 16, 1997, pursuant to KRS 13A.290(6):

13 KAR 2:080
704 KAR 3:305
704 KAR 20:045
704 KAR 20:060
704 KAR 20:070
704 KAR 20:290
782 KAR 1:030

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the July 2, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES Meeting of July 9, 1997

Administrative regulations were available for consideration by the Interim Joint Committee on Agriculture and Natural Resources during its meeting of July 9, 1997, having been referred to the Committee on June 11, 1997, pursuant to KRS 13A.290(6):

The following administrative regulations were found to comply with KRS Chapter 13A:

Department of Agriculture
302 KAR 20:180

Department of Fish and Wildlife:

301 KAR 2:140
301 KAR 2:172
301 KAR 2:174
301 KAR 2:178
301 KAR 2:251
301 KAR 3:030

Department of Mines and Minerals
805:1:160

Office of Petroleum Storage Tank Environmental Assurance Fund
415 KAR 1:130

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:
Department of Environmental Protection
401 KAR 8:030
Department of Mines and Minerals
805 KAR 1:170

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:
Department of Mines and Minerals
805 KAR 1:180

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the July 9, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

Attachment 1

The Interim Joint Committee on Agriculture and Natural Resources voted on July 9, 1997, to amend 401 KAR 8:030 as follows:

Page 5; Section 1 (2)(c)4; line 18 - Add the following sentence at the end of this subparagraph after "system-related duties.":

Class IVA water treatment plants that treat water during more than one (1) shift per day may use a Class IIIA operator for the additional shifts, if the Class IVA operator in direct responsible charge is on-call and is able to respond on-site within thirty (30) minutes.

Page 7; Section 1(8); line six through page 8, line 8:
After subsection number (8) delete the text of subsection (8) in its entirety

Page 8; Section 1(9) line 9 through page 9, line 10:
Delete subsection (9) in its entirety

Page 8; Section 1(10); line 11:
Delete the subsection number (10)

Page 24; Section 6(7); lines 16-18:
Delete the entire second sentence beginning with **"This extension of compliance"** and ending with **"of this administrative regulation."**

Attachment 2

The Subcommittee on Natural Resources voted on July 9, 1997 to amend 805: KAR 1:170 as follows:

In Section 3(2)(c) by changing **"thirty (30)"** to **"fifteen (15)"** and by changing **"first"** to **"second"**.

ADMINISTRATIVE REGISTER - 450

Attachment 3

The Interim Joint Committee on Agriculture and Natural Resources adopted on July 9, 1997, a motion on 805 KAR 1:180 to defer the regulation and request the Department of Mines and Minerals to not implement any changes that industry opposes until the Department and the industry have time to sit down at the table again.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS Meeting of July 11, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Licensing and Occupations during its meeting of July 11, 1997, having been referred to the Committee on July 8, 1997, pursuant to KRS 13A.290(6):

804 KAR 4:340
201 KAR 11:400
40 KAR 2:250
40 KAR 2:260

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Administrative Regulation Review Subcommittee meeting pursuant to KRS 13A.320:

804 KAR 4:340
201 KAR 11:400
40 KAR 2:250
40 KAR 2:260

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the July 11, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE Meeting of July 15, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Banking and Insurance during its meeting of July 15, 1997, having been referred to the Committee on Banking and Insurance, pursuant to KRS 13A.290(6):

806 KAR 4:010

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): none

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: none

The wording of the amendment of each such administrative

regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the July 1, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

The Interim Joint Committee on Banking and Insurance created the Subcommittee on Department of Insurance Fees at its meeting on June 24, 1997 to review 806 KAR 4:010 and report back to the Committee at its meeting on July 15, 1997. The Subcommittee met on July 8, 1997 and on July 15, 1997. Members of the Subcommittee expressed concern that the revenues generated by the fee increases in the regulation would not remain in the Department of Insurance but would lapse to the General Fund. They noted KRS 304.2-400(2) required all funds in the Department's insurance regulatory trust fund be used "only by the department to defray the expenses of the department in discharge of its administrative and regulatory powers and duties." At its meeting on July 15, 1997, Commissioner Nichols of the Department of Insurance withdrew the regulation. The Subcommittee reported to the Interim Joint Committee on Banking and Insurance on July 15, 1997 that the Commissioner had withdrawn the regulation. The Commissioner testified before the Interim Joint Committee on Banking and Insurance on July 15, 1997 that he had withdrawn the regulation which increased various fees.

ADMINISTRATIVE REGISTER - B1

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates B2

The Locator Index lists all administrative regulations published in VOLUME 24 of the Administrative Register from July, 1997 through June, 1998. It also lists the page number on which each administrative regulation is published, the effective date of the administrative regulation after it has completed the review process, and other action which may affect the administrative regulation. NOTE: The administrative regulations listed under VOLUME 23 are those administrative regulations that were originally published in Volume 23 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1997 bound Volumes were published.

KRS Index B8

The KRS Index is a cross-reference of statutes to which administrative regulations relate. These statute numbers are derived from the RELATES TO line of each administrative regulation submitted for publication in VOLUME 24 of the Administrative Register.

Subject Index B10

The Subject Index is a general index of administrative regulations published in VOLUME 24 of the Administrative Register, and is mainly broken down by agency.

ADMINISTRATIVE REGISTER - B2

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
----------------------	---------------------	-------------------	----------------------	---------------------	-------------------

VOLUME 23

The administrative regulations listed under VOLUME 23 are those administrative regulations that were originally published in Volume 23 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1997 bound Volumes were published.

EMERGENCY ADMINISTRATIVE REGULATIONS: (Note: Emergency regulations expire 170 days from publication, or 170 days from publication plus number of days of requested extensions, or upon replacement or repeal, whichever occurs first)

101 KAR 3:045E	3533	2-28-97
106 KAR 1:091E	3709	3-31-97
200 KAR 6:050E	3207	1-15-97
401 KAR 8:030E	1888	10-7-96
Expired		5-20-97
501 KAR 8:010E	3536	3-14-97
Replaced		6-17-97
505 KAR 1:020E	3208	2-14-97
505 KAR 1:030E	3713	3-25-97
787 KAR 1:210E	3540	3-3-97
803 KAR 2:301E	3210	2-6-97
803 KAR 2:306E	3211	2-6-97
803 KAR 2:308E	3214	2-6-97
803 KAR 2:320E	3217	2-14-97
803 KAR 2:402E	3223	2-6-97
803 KAR 2:403E	3224	2-6-97
803 KAR 2:404E	3226	2-6-97
803 KAR 2:405E	3231	2-6-97
803 KAR 2:410E	3232	2-6-97
803 KAR 2:411E	3234	2-6-97
803 KAR 2:424E	3236	2-6-97
803 KAR 2:425E	3237	2-6-97
803 KAR 2:500E	3240	2-6-97
803 KAR 2:900E	3243	2-14-97
803 KAR 25:010E	3245	2-11-97
803 KAR 25:200E	3257	2-11-97
803 KAR 25:210E	3258	2-11-97
803 KAR 25:220E	3259	2-11-97
803 KAR 25:230E	3261	2-11-97
806 KAR 13:130E	3714	3-24-97
806 KAR 13:140E	3715	3-24-97
806 KAR 18:080E	2443	11-15-96
Replaced	4130	5-20-97
806 KAR 38:090E	3541	3-11-97
811 KAR 1:090E	3717	4-15-97
900 KAR 6:015E	2954	12-18-96
902 KAR 17:035E	2961	12-18-96
902 KAR 47:080E	1903	10-1-96
Expired		4-20-97
902 KAR 47:090E	1907	10-1-96
Expired		4-20-97
902 KAR 47:100E	1911	10-1-96
Expired		4-20-97
904 KAR 2:006E	4079	4-30-97
904 KAR 2:015E	3271	1-31-97
904 KAR 2:016E	4088	4-30-97
904 KAR 2:017E	3719	3-27-97
Withdrawn		7-14-97
904 KAR 2:370E	3728	3-27-97
Withdrawn		7-11-97
904 KAR 2:410E	1918	10-1-96
Expired		5-25-97

904 KAR 3:010E	3285	1-31-97
904 KAR 3:020E	3542	2-27-97
904 KAR 3:025E	2700	11-27-96
Replaced	4158	6-16-97
904 KAR 3:042E	3548	2-27-97
905 KAR 1:180E	3735	3-19-97
905 KAR 2:140E	2444	11-15-96
Expired		5-20-97
907 KAR 1:013E	2962	12-18-96
Replaced		6-18-97
907 KAR 1:022E	3294	1-17-97
907 KAR 1:025E	3299	1-17-97
907 KAR 1:038E	3306	1-17-97
Replaced		6-18-97
907 KAR 1:160E	3736	4-15-97
907 KAR 1:170E	3739	4-15-97
907 KAR 1:631E	3308	1-17-97
Replaced		6-18-97
907 KAR 1:720E	3741	3-18-97
908 KAR 2:100E	1554	9-13-96
Expired		4-4-97
908 KAR 2:110E	1556	9-13-96
Expired		4-4-97
908 KAR 2:120E	1560	9-13-96
Expired		4-4-97
908 KAR 2:130E	1563	9-13-96
Expired		4-4-97
908 KAR 2:140E	1566	9-13-96
Expired		4-4-97
908 KAR 2:150E	1569	9-13-96
Expired		4-4-97
908 KAR 2:160E	1572	9-13-96
Expired		4-4-97
908 KAR 2:170E	1574	9-13-96
Expired		4-4-97
908 KAR 2:180E	1576	9-13-96
Expired		4-4-97
908 KAR 2:200E	3742	3-18-97

ORDINARY ADMINISTRATIVE REGULATIONS:

1 KAR 6:020		
Amended	2833	
13 KAR 2:045		
Amended	3380	
Amended	3797	
As Amended	4099	6-16-97
13 KAR 2:080	4017	(See Volume 24)
40 KAR 2:250	4018	(See Volume 24)
40 KAR 2:260	4019	(See Volume 24)
40 KAR 3:010		
Amended	3604	(See Volume 24)
103 KAR 16:200	3645	(See Volume 24)
200 KAR 6:050	4245	
200 KAR 17:070	4246	

ADMINISTRATIVE REGISTER - B3

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
201 KAR 2:045	3124		401 KAR 58:040		
Amended	3806		Recodified from 401-63:042		6-10-97
As Amended	4108	6-16-97	401 KAR 63:042		
201 KAR 2:106			Recodified as 401-58:040		6-10-97
Amended	3866	(See Volume 24)	401 KAR 63:060		
201 KAR 2:220	3125		Recodified from 401-57:061		6-2-97
Amended	3807		401 KAR 63:101	4253	
As Amended	4109	6-16-97	401 KAR 63:110	4255	
201 KAR 2:225	4021	(See Volume 24)	401 KAR 63:160	4257	
201 KAR 11:400			401 KAR 63:190	4259	
Amended	3605		401 KAR 63:340	4260	
Amended	4175	(See Volume 24)	401 KAR 63:360	4262	
201 KAR 13:080	4250		401 KAR 63:400	4264	
201 KAR 18:210	3647		401 KAR 63:420	4266	
As Amended	4110	6-13-97	401 KAR 63:460	4268	
201 KAR 20:057			401 KAR 63:520	4270	
Amended	3606		401 KAR 63:701	4272	
Amended	4176	(See Volume 24)	415 KAR 1:130	3649	
201 KAR 23:011	4251		Amended	4178	(See Volume 24)
201 KAR 23:020			501 KAR 6:020		
Amended	4201		Amended	3892	
201 KAR 23:060			501 KAR 6:040		
Amended	4202		Amended	4208	(See Volume 24)
201 KAR 23:070			501 KAR 6:060		
Amended	4203		Amended	4210	
201 KAR 23:080			501 KAR 6:120		
Amended	4206		Amended	3611	6-16-97
201 KAR 23:140	4252		Amended	4212	
201 KAR 30:040			501 KAR 6:130		
Amended	3608		Amended	1007	
As Amended	4111	6-13-97	As Amended	1941	
201 KAR 30:070			Amended	1678	
Amended	3609		501 KAR 6:170		
As Amended	4111	6-13-97	Amended	3894	7-7-97
201 KAR 30:080			501 KAR 8:010		
Repealed	3648	6-13-97	Amended	3895	(See Volume 24)
201 KAR 30:081	3648	6-13-97	501 KAR 13:020	3652	
201 KAR 30:140			As Amended	4113	6-16-97
Repealed	3648	6-13-97	600 KAR 1:120		
301 KAR 2:140			Amended	3409	
Amended	3867	7-9-97	Amended	3817	
301 KAR 2:172			As Amended	4113	6-2-97
Amended	3870	7-9-97	600 KAR 3:010		
301 KAR 2:174			Amended	3899	7-1-97
Amended	3873	7-9-97	600 KAR 5:010		
301 KAR 2:178			Amended	3411	
Amended	3874	(See Volume 24)	Amended	3819	
301 KAR 2:251			As Amended	4115	6-2-97
Amended	3879	7-9-97	601 KAR 1:025		
301 KAR 3:030			Amended	3917	7-1-97
Amended	3881	7-9-97	601 KAR 9:140		
302 KAR 20:180			Amended	3613	
Amended	3882	(See Volume 24)	As Amended	4116	6-2-97
302 KAR 40:010			602 KAR 15:010		
Amended	3885		Amended	3615	
401 KAR 8:030			As Amended	4117	6-2-97
Amended	3079		602 KAR 50:010		
Amended	3808	(See Volume 24)	Amended	4214	
401 KAR 57:011			602 KAR 50:060		
Recodified as 401-58:025		6-10-97	Amended	4217	
401 KAR 57:061			602 KAR 50:070		
Recodified as 401-63:060		6-2-97	Amended	4218	
401 KAR 58:025			602 KAR 50:090		
Recodified from 401-57:011		6-10-97	Amended	4220	

ADMINISTRATIVE REGISTER - B4

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
602 KAR 50:100 Amended	4222	(See Volume 24)	803 KAR 2:424 Amended	3950	
602 KAR 50:120 Amended	4224	(See Volume 24)	803 KAR 2:425 Amended	3952	
603 KAR 4:035 Amended	3413		803 KAR 2:500 Amended	3955	
Amended	3821		803 KAR 25:010 Amended	3958	(See Volume 24)
As Amended	4119	6-2-97	803 KAR 25:200	4022	(See Volume 24)
704 KAR 3:305 Amended	3419		803 KAR 25:210	4023	(See Volume 24)
Amended	3827	(See Volume 24)	803 KAR 25:220	4024	(See Volume 24)
704 KAR 20:045 Amended	3920	7-2-97	803 KAR 25:230	4026	(See Volume 24)
704 KAR 20:060 Amended	3922	7-2-97	804 KAR 4:340	4027	(See Volume 24)
704 KAR 20:070 Amended	3923	7-2-97	805 KAR 1:160 Amended	3653	
704 KAR 20:290 Amended	3924	7-2-97	Amended	4180	(See Volume 24)
704 KAR 20:440	4274		805 KAR 1:170	3655	
704 KAR 20:585 Amended	3617		Amended	4182	(See Volume 24)
As Amended	4124	6-16-97	805 KAR 1:180	3658	(See Volume 24)
704 KAR 20:696	4275	(See Volume 24)	806 KAR 3:190	4029	(See Volume 24)
704 KAR 20:706	4281		806 KAR 4:010 Amended	3970	(See Volume 24)
780 KAR 3:070 Amended	3096		806 KAR 18:080 Amended	3126	
Amended	3588		As Amended	3595	
780 KAR 3:080 Amended	3102		807 KAR 5:063	4130	5-20-97
Amended	3594		Amended	3659	
780 KAR 6:060 Amended	3104		808 KAR 10:225	4185	(See Volume 24)
781 KAR 1:030 Amended	3425		815 KAR 15:026 Amended	3459	(See Volume 24)
Amended	3829		Amended	3621	(See Volume 24)
As Amended	4128	6-16-97	815 KAR 20:020 Amended	3972	6-25-97
782 KAR 1:020 Amended	3427		815 KAR 20:070 Amended	3975	6-25-97
As Amended	4129	6-16-97	815 KAR 20:090 Amended	3978	6-25-97
782 KAR 1:030 Amended	3428	(See Volume 24)	900 KAR 2:060 Amended	2294	
787 KAR 1:210 Amended	4226		Amended	3035	
803 KAR 2:301 Amended	3925		Withdrawn		7-1-97
803 KAR 2:306 Amended	3927		902 KAR 2:020 Amended	3119	
803 KAR 2:308 Amended	3929		Amended	3597	
803 KAR 2:320 Amended	3932		As Amended	4131	6-16-97
803 KAR 2:402 Amended	3938		902 KAR 14:061	4282	
803 KAR 2:403 Amended	3939		902 KAR 20:008 Amended	3624	
803 KAR 2:404 Amended	3941		As Amended	4135	6-16-97
803 KAR 2:405 Amended	3946		902 KAR 47:080	3472	
803 KAR 2:410 Amended	3947		As Amended	4137	6-16-97
803 KAR 2:411 Amended	3949		902 KAR 47:090	3475	
			As Amended	4140	6-16-97
			902 KAR 47:100	3481	
			As Amended	4146	6-16-97
			902 KAR 55:015 Amended	3981	
			Withdrawn		6-10-97
			902 KAR 55:030 Amended	3983	
			Died*		6-6-97
			902 KAR 55:040 Amended	3985	(See Volume 24)
			902 KAR 55:045 Amended	4228	

ADMINISTRATIVE REGISTER - B5

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
902 KAR 55:090			907 KAR 1:710	4285	
Amended	3986		908 KAR 1:350	1833	
902 KAR 100:040			Amended	2827	
Amended	3988		As Amended	3362	
904 KAR 2:015			Withdrawn		7-14-97
Amended	4232	(See Volume 24)	908 KAR 2:060		
904 KAR 2:410			Amended	3454	6-18-97
Amended	3432		908 KAR 2:100	3127	
Amended	3831		Amended	3845	6-16-97
As Amended	4154	6-16-97	908 KAR 2:110	3129	
904 KAR 3:010			Amended	3847	
Amended	4237		As Amended	4168	6-16-97
904 KAR 3:025			908 KAR 2:120	3133	
Amended	3627		Amended	3851	
As Amended	4158	6-16-97	As Amended	4171	6-16-97
905 KAR 2:140			908 KAR 2:130	3136	
Amended	3629		Amended	3854	
Amended	4187	(See Volume 24)	As Amended	4172	6-16-97
905 KAR 5:040			908 KAR 2:140	3139	
Amended	3637		Amended	3857	6-16-97
As Amended	4159	6-16-97	908 KAR 2:150	3142	
905 KAR 5:080			Amended	3860	6-16-97
Amended	4196	(See Volume 24)	908 KAR 2:160	3145	
905 KAR 8:160			Amended	3863	6-16-97
Amended	3995	(See Volume 24)	908 KAR 2:170	3147	6-16-97
905 KAR 8:180			908 KAR 2:180	3149	6-16-97
Amended	4000	(See Volume 24)			
907 KAR 1:008			*Statement of Consideration Not Filed by Deadline		
Amended	3440				
Amended	3839				
As Amended	4162	6-16-97			
907 KAR 1:011					
Amended	3442				
Amended	3841				
As Amended	4162	6-16-97			
907 KAR 1:013					
Amended	4003	(See Volume 24)			
907 KAR 1:028					
Amended	3640				
Amended	4199	(See Volume 24)			
907 KAR 1:038					
Amended	4009	(See Volume 24)			
907 KAR 1:270					
Amended	4241	(See Volume 24)			
907 KAR 1:280					
Amended	4243	(See Volume 24)			
907 KAR 1:380					
Repealed	4167	6-16-97			
907 KAR 1:381					
As Amended	4167	6-16-97			
907 KAR 1:405					
	3661	(See Volume 24)			
907 KAR 1:413					
	4283	(See Volume 24)			
907 KAR 1:433					
	4284	(See Volume 24)			
907 KAR 1:560					
Amended	4011				
Died*		6-6-97			
907 KAR 1:605					
Amended	3642				
As Amended	4167	6-16-97			
907 KAR 1:631					
Amended	4015	(See Volume 24)			
907 KAR 1:645					
	4033				
907 KAR 1:655					
	4035				
907 KAR 1:665					
	4039				

ADMINISTRATIVE REGISTER - B6

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	24 Ky.R Page No.	Effective Date	Regulation Number	24 Ky.R Page No.	Effective Date
----------------------	---------------------	-------------------	----------------------	---------------------	-------------------

VOLUME 24

EMERGENCY ADMINISTRATIVE REGULATIONS: (Note: Emergency regulations expire 170 days from publication, or 170 days from publication plus number of days of requested extensions, or upon replacement or repeal, whichever occurs first)

200 KAR 23:010E	307	6-25-97
502 KAR 45:145E	26	6-3-97
603 KAR 5:070E	27	5-19-97
780 KAR 2:130E	308	7-14-97
787 KAR 1:200E	310	6-27-97
902 KAR 20:016E	32	6-12-97
Reprint	269	6-12-97
902 KAR 55:095E	41	6-12-97
904 KAR 2:017E	311	7-14-97
904 KAR 2:035E	42	5-30-97
904 KAR 2:040E	45	5-30-97
904 KAR 2:046E	47	5-30-97
904 KAR 2:050E	49	5-30-97
904 KAR 2:055E	52	5-30-97
904 KAR 2:060E	55	5-30-97
904 KAR 2:370E	320	7-11-97

ORDINARY ADMINISTRATIVE REGULATIONS:

13 KAR 2:080		
As Amended	58	7-2-97
31 KAR 4:020		
Amended	128	
40 KAR 2:250		
As Amended	328	
40 KAR 2:260		
As Amended	328	
40 KAR 3:010		
As Amended	329	
101 KAR 1:365		
Amended	387	
102 KAR 1:175		
Amended	129	
103 KAR 15:050		
Amended	388	
103 KAR 16:200		
As Amended	59	7-16-97
201 KAR 2:106		
As Amended	61	6-18-97
201 KAR 2:225		
As Amended	329	
201 KAR 10:010		
Amended	131	
201 KAR 10:040		
Amended	132	
201 KAR 10:070		
Amended	133	
201 KAR 10:080		
Amended	134	
201 KAR 11:400		
As Amended	330	
201 KAR 20:057		
As Amended	62	6-18-97

201 KAR 20:240		
Amended	391	
201 KAR 20:411		
Amended	425	
301 KAR 1:201		
Amended	392	
301 KAR 2:082		
Amended	427	
301 KAR 2:111		
Amended	138	
301 KAR 2:125		
Amended	140	
301 KAR 2:178		
As Amended	64	7-9-97
302 KAR 20:180		
As Amended	68	7-9-97
401 KAR 8:030		
As Amended	70	
As Amended	332	
401 KAR 46:005		
Amended	221	
401 KAR 46:010		
Amended	223	
401 KAR 46:020		
Amended	225	
401 KAR 46:030		
Amended	228	
401 KAR 46:040		
Amended	230	
401 KAR 46:050		
Amended	234	
401 KAR 46:060		
Amended	142	
401 KAR 46:070		
Amended	145	
401 KAR 47:150		
Amended	149	
415 KAR 1:130		
As Amended	77	7-9-97
500 KAR 11:001		
Amended	151	
500 KAR 11:025		
Amended	152	
500 KAR 11:080		
Amended	154	
500 KAR 11:090		
Amended	155	
501 KAR 6:040		
As Amended	339	
501 KAR 6:050		
Amended	156	
501 KAR 6:110		
Amended	396	
501 KAR 8:010		
As Amended	79	6-17-97
502 KAR 31:010		
Amended	429	
505 KAR 1:020		
Amended	236	
601 KAR 9:135		
Amended	398	
602 KAR 50:090		
As Amended	339	
602 KAR 50:100		
As Amended	341	
602 KAR 50:120		
As Amended	341	
603 KAR 3:080		
Amended	157	
603 KAR 5:050		
Amended	403	

ADMINISTRATIVE REGISTER - B7

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	24 Ky.R Page No.	Effective Date	Regulation Number	24 Ky.R Page No.	Effective Date
702 KAR 7:065			902 KAR 20:048		
Amended	174		Amended	410	
704 KAR 3:305			902 KAR 20:051		
As Amended	82	7-2-97	Amended	418	
704 KAR 7:130	238		902 KAR 55:040		
704 KAR 20:165			Amended	126	
Amended	176		902 KAR 100:073		
704 KAR 20:670			Amended	195	
Amended	404		904 KAR 2:015		
704 KAR 20:696			As Amended	380	
As Amended	343		904 KAR 3:020		
704 KAR 20:710			Amended	209	
Amended	177		904 KAR 3:042		
750 KAR 2:010			Amended	215	
Amended	179		905 KAR 2:140		
782 KAR 1:030			As Amended	97	6-18-97
As Amended	83	7-2-97	905 KAR 5:080		
785 KAR 1:010			As Amended	104	6-18-97
Amended	407		905 KAR 8:160		
785 KAR 1:020			As Amended	107	6-18-97
Amended	409		905 KAR 8:180		
803 KAR 25:010			As Amended	110	6-18-97
As Amended	349		907 KAR 1:003	247	
803 KAR 25:200			907 KAR 1:013		
As Amended	361		As Amended	113	6-18-97
803 KAR 25:210			907 KAR 1:028		
As Amended	362		As Amended	118	6-18-97
803 KAR 25:220			907 KAR 1:038		
As Amended	362		As Amended	119	6-18-97
803 KAR 25:230			907 KAR 1:270		
As Amended	363		As Amended	384	
804 KAR 4:340			907 KAR 1:280		
As Amended	88	7-11-97	As Amended	385	
805 KAR 1:160			907 KAR 1:404		
As Amended	88	7-9-97	Repealed	120	6-18-97
805 KAR 1:170			907 KAR 1:405		
As Amended	90		As Amended	120	6-18-97
As Amended	365	7-9-97	907 KAR 1:413		
805 KAR 1:180			As Amended	385	
As Amended	92		907 KAR 1:433		
806 KAR 3:190			As Amended	386	
Amended	122		907 KAR 1:631		
806 KAR 4:010			As Amended	120	6-18-97
As Amended	93				
Withdrawn		7-15-97			
806 KAR 13:130	431				
806 KAR 13:140	432				
806 KAR 38:090	239				
806 KAR 40:020	433				
807 KAR 5:063					
As Amended	367				
808 KAR 10:225					
As Amended	368				
811 KAR 1:090					
Amended	180				
815 KAR 15:026					
As Amended	94	6-25-97			
902 KAR 14:084	435				
902 KAR 14:100	241				
902 KAR 20:026					
Amended	182				
902 KAR 20:036					
Amended	190				

ADMINISTRATIVE REGISTER - B8

KRS SECTION

REGULATION

KRS SECTION

REGULATION

KRS INDEX

Chapter 13B

16.040

16.050

16.080

17.500

18A.075

18A.0751

18A.095

Chapter 56

61.874

117.343

131.081

131.170

136.100

141.042

141.160

141.170

141.300

150.010

150.025

150.092

150.170

150.180

150.250

150.280

150.290

150.305

150.320

150.330

150.360

150.370

150.390

150.470

150.680

150.990

151B.023

151B.025

151B.110

151B.125

151B.150

156.070

Chapter 157

160.380

161.020

161.027

161.028

161.030

101 KAR

1:365

502 KAR

45:145E

502 KAR

45:145E

502 KAR

45:145E

502 KAR

31:010

101 KAR

1:365

101 KAR

1:365

101 KAR

1:365

200 KAR

23:010E

201 KAR

20:240

31 KAR

4:020

103 KAR

15:050

103 KAR

15:050

103 KAR

15:050

103 KAR

15:050

103 KAR

15:050

103 KAR

15:050

301 KAR

2:082

301 KAR

2:125

301 KAR

2:111

301 KAR

2:125

301 KAR

2:125

301 KAR

2:111

301 KAR

2:082

301 KAR

2:125

301 KAR

2:082

301 KAR

2:082

301 KAR

2:082

301 KAR

2:082

301 KAR

2:082

301 KAR

2:082

301 KAR

2:111

301 KAR

2:125

301 KAR

2:111

301 KAR

1:201

301 KAR

2:082

301 KAR

2:125

301 KAR

1:201

301 KAR

2:125

785 KAR

1:010

785 KAR

1:020

780 KAR

2:130E

780 KAR

2:130E

785 KAR

1:010

785 KAR

1:020

785 KAR

1:010

785 KAR

1:020

780 KAR

2:130E

702 KAR

7:065

750 KAR

2:010

704 KAR

7:130

704 KAR

20:165

704 KAR

20:670

704 KAR

20:710

704 KAR

20:710

704 KAR

20:165

704 KAR

20:670

704 KAR

20:710

704 KAR

20:165

704 KAR

20:670

704 KAR

20:710

161.430

177.830-177.890

186.020

186.050

189.222

189.337

194.050

194.060

Chapter 196

Chapter 197

205.170

205.275

205.277

205.200

205.211

205.220

205.231

205.245

205.520

211.842-211.852

211.950-211.956

211.990

211.990-211.956

214.175

216B.010-216B.130

216B.010-216B.131

216B.015

216B.105

216B.410

216B.990

218A.070

218A.180

218A.200

224.01

224.01-010

224.10

224.10-210

224.10-420

224.40

224.40-100

224.40-305

224.43

102 KAR

1:175

603 KAR

3:080

601 KAR

9:135

601 KAR

9:135

603 KAR

5:070E

603 KAR

5:050

904 KAR

3:020

904 KAR

3:042

904 KAR

2:035E

501 KAR

6:050

501 KAR

6:110

501 KAR

6:050

501 KAR

6:110

904 KAR

2:060E

904 KAR

2:035E

904 KAR

2:035E

904 KAR

2:017E

904 KAR

2:035E

904 KAR

2:040E

904 KAR

2:046E

904 KAR

2:017E

904 KAR

2:050E

904 KAR

2:055E

904 KAR

2:035E

904 KAR

2:040E

904 KAR

2:046E

907 KAR

1:003

902 KAR

100:073

902 KAR

14:084

902 KAR

100:073

902 KAR

14:100

902 KAR

20:016E

902 KAR

20:016E

902 KAR

20:036

902 KAR

20:048

902 KAR

20:051

902 KAR

20:026

ADMINISTRATIVE REGISTER - B9

KRS SECTION	REGULATION	KRS SECTION	REGULATION
224.50	401 KAR 46:050	23 CFR	603 KAR 3:080
224.50-820-224.50-844	401 KAR 46:005		603 KAR 5:070E
	401 KAR 46:010	42 CFR	902 KAR 20:016E
	401 KAR 46:020	45 CFR	904 KAR 2:035E
	401 KAR 46:030		904 KAR 2:046E
	401 KAR 46:040		904 KAR 2:050E
	401 KAR 46:060		904 KAR 2:055E
	401 KAR 46:070		904 KAR 2:060E
224.99	401 KAR 46:010	7 USC	904 KAR 3:020
	401 KAR 47:150		904 KAR 3:042
230.630	811 KAR 1:090	23 USC	603 KAR 3:080
230.640	811 KAR 1:090	42 USC	904 KAR 2:017E
230.700	811 KAR 1:090		904 KAR 2:035E
238.500-238.995	500 KAR 11:001		904 KAR 2:040E
238.505	500 KAR 11:080		904 KAR 2:046E
	500 KAR 11:090		904 KAR 2:050E
238.550	500 KAR 11:025		904 KAR 2:055E
238.570	500 KAR 11:025		904 KAR 2:060E
304.3-120	806 KAR 3:190		904 KAR 2:370E
304.3-140	806 KAR 3:190	49 USC	601 KAR 9:135
304.6	806 KAR 3:190	PL 104-193	904 KAR 3:020
304.7	806 KAR 3:190		
304.13-011	806 KAR 13:130		
304.13-057	806 KAR 13:130		
	806 KAR 13:140		
304.13-091	806 KAR 13:130		
304.13-161	806 KAR 13:140		
304.13-415	806 KAR 13:130		
	806 KAR 13:140		
304.17A-160	806 KAR 38:090		
304.24-350	806 KAR 3:190		
304.33	806 KAR 3:190		
304.38-080	806 KAR 38:090		
304.40-075	806 KAR 40:020		
Chapter 310	902 KAR 20:016E		
311.990	902 KAR 20:016E		
311.241-311.247	902 KAR 20:016E		
314.041	201 KAR 20:240		
314.042	201 KAR 20:240		
314.051	201 KAR 20:240		
314.071	201 KAR 20:240		
314.073	201 KAR 20:240		
314.142	201 KAR 20:411		
314.161	201 KAR 20:240		
322.010	401 KAR 46:005		
	401 KAR 46:020		
322.040	401 KAR 46:005		
	401 KAR 46:020		
323A.040	201 KAR 10:040		
323A.050	201 KAR 10:040		
323A.060	201 KAR 10:040		
323A.070	201 KAR 10:040		
323A.080	201 KAR 10:070		
323A.110	201 KAR 10:070		
323A.210	201 KAR 10:010		
	201 KAR 10:080		
341.380	787 KAR 1:200E		
Chapter 342	806 KAR 13:140		
Chapter 439	501 KAR 6:050		
	501 KAR 6:110		
605.095	505 KAR 1:020		
605.100	505 KAR 1:020		
7 CFR	904 KAR 3:020		
	904 KAR 3:042		
10 CFR	902 KAR 100:073		
21 CFR	902 KAR 55:095E		

ADMINISTRATIVE REGISTER - B10

SUBJECT INDEX

ADULT AND TECHNICAL EDUCATION

Management of the Kentucky TECH System

Minimum standards of admission for postsecondary students; 780 KAR 2:130E

ADULT EDUCATION AND LITERACY

High school equivalency diploma; 785 KAR 1:020

Testing program; 785 KAR 1:010

ADVERTISING DEVICES (HIGHWAYS)

(See Highways)

AMBULANCES

(See Public Health)

ARCHITECTS

(Also see Landscape Architects)

ASSET/LIABILITY COMMISSION

Guidelines for use of financial agreements; 200 KAR 23:010E

BILLBOARDS

(See Highways)

BINGO

(See Charitable Gaming)

CHARITABLE GAMING

Charity fundraising event; 500 KAR 11:080

Definitions; 500 KAR 11:001

Quarterly reports; 500 KAR 11:025

Special limited charitable games; 500 KAR 11:090

CLASSIFIED EMPLOYEES

(See Personnel)

CONTROLLED SUBSTANCES

(See Public Health)

CORRECTIONS

Institution Policies and Procedures

Luther Lockett Correctional Complex; 501 KAR 6:050

Roederer Correctional Complex; 501 KAR 6:110

DISTRICT SUPPORT SERVICES (EDUCATION)

School Terms, Attendance, Operation

Agent designation, high school interscholastic athletics; 702 KAR 7:065

DRUGS (CONTROLLED SUBSTANCES)

(See Public Health)

EDUCATION DEPARTMENT

District Support Services

School terms, attendance, operation; 702 KAR Chapter 7

Learning Programs Development

Learning support services; 704 KAR Chapter 7

EDUCATION, ARTS, AND HUMANITIES CABINET

Education Department

District Support Services

School terms, attendance, operation; 702 KAR Chapter 7

Learning Programs Development

Learning support services; 704 KAR Chapter 7

Education Professional Standards Board; 704 KAR Chapter 20

EDUCATION PROFESSIONAL STANDARDS BOARD

Kentucky teaching certificates; 704 KAR 20:670

Professional certificate for instructional leadership-school principal, all grades; 704 KAR 20:710

Professional school position qualifications; 704 KAR 20:165

ELECTIONS

Forms and Procedures

Elections costs, county clerk reimbursement form; 31 KAR 4:020

EMERGENCY MEDICAL SERVICES

(See Public Health)

EMPLOYEES, STATE

(See also Personnel)

Personnel Board; 101 KAR Chapter 1

EMPLOYMENT SERVICES

Unemployment Insurance

Maximum weekly benefit rate; 787 KAR 1:200E

EXOTIC WILDLIFE

(See Fish and Wildlife Resources)

FAMILIES AND CHILDREN

Social Insurance

Food Stamp Program; 904 KAR Chapter 3

Public assistance; 904 KAR Chapter 2

FINANCE AND ADMINISTRATION CABINET

School Facilities Construction Commission; 750 KAR Chapter 2

Kentucky Asset/Liability Commission; 200 KAR Chapter 23

FISH

(See Fish and Wildlife Resources)

FISH AND WILDLIFE RESOURCES

Fish

Fishing limits; 301 KAR 1:201

Game

Deer, turkey hunting on federal areas; 301 KAR 2:111

Exotic wildlife; importing and holding; 301 KAR 2:082

Small game, furbearer hunting on federal areas; 301 KAR 2:125

FOOD STAMPS

(See Social Insurance)

GAMBLING

(See Charitable Gaming)

GAME

(See Fish and Wildlife Resources)

HARNESS RACING

Stimulants and drugs; 811 KAR 1:090

HEALTH CARE INSURANCE

(See Insurance)

HEALTH FACILITIES

(See Public Health, or Medicaid)

HEALTH MAINTENANCE ORGANIZATIONS

(See Insurance)

ADMINISTRATIVE REGISTER - B11

HEALTH SERVICES

Medicaid

Medicaid services; 907 KAR Chapter 1

Public Health

Controlled substances; 902 KAR Chapter 55

Emergency medical services, ambulance service providers; 902 KAR Chapter 14

Health services, facilities; 902 KAR Chapter 20

Radiology; 902 KAR Chapter 100

HIGHWAYS

Maintenance

Advertising devices; 603 KAR 3:080

Traffic

Motor vehicle dimension limits; 603 KAR 5:070E

Uniform traffic control devices; 603 KAR 5:050

HOSPITALS

(See Public Health, or Medicaid)

INCOME TAX

(See Taxation)

INSURANCE

Authorization of Insurers and General Requirements

Risk-based capital for insurers; 806 KAR 3:190

Health Care Malpractice

Charitable health care provider registration; 806 KAR 40:020

Health Maintenance Organizations

HMO open enrollment; 806 KAR 38:090

Rates and Rating Organizations

Experience modification factors for workers' compensation insurers; 806 KAR 13:130

Notice of right to seek review of application of workers' compensation insurance rates; 806 KAR 13:140

JUSTICE CABINET

Charitable gaming; 500 KAR 11:001

Corrections Department

Institutions policies and procedures; 501 KAR Chapter 6

Juvenile Justice

Child welfare; 505 KAR Chapter 1

State Police

Candidate selection; 502 KAR Chapter 45

Sex offender registration system; 502 KAR Chapter 31

JUVENILE JUSTICE

Child Welfare

Internal grievance procedure; 505 KAR 1:020

KENO

(See Charitable Gaming)

KENTUCKY WORKS

(See Social Insurance)

LANDSCAPE ARCHITECTS

Applications; 201 KAR 10:040

Board personnel; 201 KAR 10:010

Continuing education; 201 KAR 10:080

Seals; 201 KAR 10:070

LEARNING PROGRAMS DEVELOPMENT (EDUCATION)

Learning Support Services

Minority teacher requirement; 704 KAR 7:130

LITERACY

(See Adult Education and Literacy)

LUTHER LUCKETT CORRECTIONAL COMPLEX

(See Corrections Department)

MEDICAID

Medicaid Services

Repealer; 907 KAR 1:003

MINORITY TEACHER REQUIREMENTS

(See Learning Programs Development)

MOTOR VEHICLE REGISTRATION

(See Vehicle Regulation)

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Environmental Protection

Waste Management; 401 KAR Chapters 46, 47

NURSING, BOARD OF

Fees for applications and services; 201 KAR 20:240

Sexual assault nurse examiner program standards, credential requirements; 201 KAR 20:411

NURSING FACILITY SERVICES

(See Public Health, or Medicaid)

OCCUPATIONS AND PROFESSIONS

Landscape architects; 201 KAR Chapter 10

Nursing; 201 KAR Chapter 20

PERSONAL CARE HOMES

(See Public Health)

PERSONNEL

(See also Employees, State)

Board

Appeal and hearing procedures; 101 KAR 1:365

PUBLIC ASSISTANCE

(See Social Insurance)

PUBLIC HEALTH

Controlled Substances

Prescription for Schedule II, fax or partial filling; 902 KAR 55:095E

Emergency Medical Services, Ambulance Service Providers

Advanced life support medical first response providers; 902 KAR 14:100

Class III ground ambulance providers; 902 KAR 14:084

Health Services, Facilities

Hospitals; operations, services; 902 KAR 20:016E

Intermediate care, operation and services; 902 KAR 20:051

Personal care homes; operation, services; 902 KAR 20:036

Skilled nursing facilities; operation, services; 902 KAR 20:026

Radiology

Use of radionuclides in the healing arts; 902 KAR 100:073

PUBLIC PROTECTION AND REGULATION CABINET

Insurance

Authorization of insurers, requirements; 806 KAR Chapter 3

Health care malpractice; 806 KAR 40:020

Health maintenance organizations; 806 KAR Chapter 38

Rates and rating organizations; 806 KAR Chapter 13

Kentucky Racing Commission

Harness racing; 811 KAR Chapter 1

RACING COMMISSION

Harness racing; 811 KAR Chapter 1

RADIOLOGY

(See Public Health)

ADMINISTRATIVE REGISTER - B12

RETIREMENT

Teachers' Retirement
Investment policies; 102 KAR 1:175

REVENUE

(See also Taxation)
Income Tax
Administration; 103 KAR Chapter 15

SCHOOL FACILITIES CONSTRUCTION COMMISSION

Education Technology Funding Program guidelines; 750 KAR 2:010

SCHOOL TERMS, ATTENDANCE, OPERATION

(See District Support Services)

SEX OFFENDER REGISTRATION SYSTEM

System; 502 KAR 31:010

SOCIAL INSURANCE

Food Stamp Program
Employment and Training Program; 904 KAR 3:042
Financial requirements; 904 KAR 3:020
Public Assistance
Adverse action, conditions; 904 KAR 2:046E
Delegation of power for oaths and affirmations; 904 KAR 2:060E
Determining initial, continuing eligibility; 904 KAR 2:040E
Hearings and appeals; 904 KAR 2:055E
Kentucky Works; 904 KAR 2:017E
Right to apply and reapply; 904 KAR 2:035E
Technical requirements for Kentucky Works; 904 KAR 2:370E
Time and manner of payments; 904 KAR 2:050E

SOLID WASTE FACILITIES

(See Waste Management)

STATE POLICE

Candidate Selection
Merit Pay Program; 502 KAR 45:145E
Sex Offender Registration System
System; 502 KAR 31:010

TAXATION

Income Tax; Administration
Filing dates and extensions; 103 KAR 15:050

TEACHER CERTIFICATION

(See Education Professional Standards Board)

TEACHERS' RETIREMENT

(See Retirement)

TEACHING CERTIFICATES

(See Education Professional Standards Board)

TIRES

(See Waste Management)

TOURISM CABINET

Fish and Wildlife Resources
Fish; 301 KAR Chapter 1
Game; 301 KAR Chapter 2

TRAFFIC

(See Highways)

TRANSPORTATION

Highways
Maintenance; 603 KAR Chapter 3
Traffic; 603 KAR Chapter 5

Vehicle Regulation

Motor vehicle tax; 601 KAR Chapter 9

UNCLASSIFIED EMPLOYEES

(See Personnel)

UNEMPLOYMENT INSURANCE

(See Employment Services)

VEHICLE REGULATION

Motor Vehicle Tax
Apportioned registration; 601 KAR 9:135

VOCATIONAL EDUCATION

(See Workforce Development Cabinet)

WASTE MANAGEMENT

Solid Waste Facilities
Special types of permits; 401 KAR 47:150
Waste Tires
Definitions; 401 KAR 46:005
Facilities' operating requirements; 401 KAR 46:030
Financial assurance; 401 KAR 46:040
General provisions; 401 KAR 46:010
Registration for accumulators, processors; 401 KAR 46:020
Tire retailer fee; 401 KAR 46:050
Waste Tire Trust Fund Grant Program; 401 KAR 46:070
Waste Tire Trust Fund Loan Program; 401 KAR 46:060

WASTE TIRES

(See Waste Management)

WILDLIFE

(See Fish and Wildlife Resources)

WORKFORCE DEVELOPMENT CABINET

Adult and Technical Education
Management of Kentucky TECH System; 780 KAR Chapter 2
Adult education and literacy; 785 KAR Chapter 1
Employment Services
Unemployment insurance; 787 KAR Chapter 1